

No. 10,082

United States

Circuit Court of Appeals

For the Ninth Circuit. ²

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

GERMAIN SEED AND PLANT COMPANY,
a corporation,

Respondent.

Transcript of Record

In Two Volumes

VOLUME II

Pages 477 to 686

Upon Petition for Enforcement of an Order
of the National Labor Relations Board

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PAUL F. O'BRIEN,
Clerk

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ALLAN HOOK,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Paradise: State your name and address, please.

The Witness: 9000 McNerney Avenue, South Gate. [325]

Trial Examiner Paradise: And your name is Allan Hook?

The Witness: Allan Hook.

Q. (By Mr. Cobey) Can you speak up, Mr. Hook? A. Yes, I will.

Q. Mr. Hook, you are employed down at Germain's? A. Yes, sir.

Q. How long have you been employed there?

A. Approximately 18 years.

Q. Will you tell us what you have done since you have been down there?

A. Well, the first day I worked there I unloaded a car.

Trial Examiner Paradise: We don't need all that. State what you have been doing for the last five or six years.

The Witness: Two years I made fertilizer.

Q. (By Mr. Cobey) Is that in the last half dozen years?

A. That is the first two years.

(Testimony of Allan Hook.)

Q. The first two years. I will accept the Trial Examiner's limitation. Just tell us about the last six years.

A. Well, since that time I have been operating the mills.

Q. Since the first two years you have been operating the mills? A. Yes, sir.

Q. I see. Now, as I understand it, the mills are on the sixth floor of the warehouse. Is that correct?

A. Yes, sir. [326]

Q. Calling your attention to the period of August and September of 1937, will you tell us what you were doing at that time?

A. Well, I have always been running the mills.

Q. You have always been running the mills?

A. Always.

Q. Have you had anything to do with the bull gang? A. Yes.

Q. Will you tell us what you had to do with the bull gang?

A. Well, as seed comes in, I got to have the seed where it can be handed to the mills, and I go to Mr. Gates, the foreman, and he says to me, "Have it put wherever you want it," and I put it in a likely spot where it can be got at for the mills.

Q. In other words, you tell the bull gang where to put it?

A. Yes. I don't order them. I just ask them to do it.

(Testimony of Allan Hook.)

Q. Do you ever ask them to do anything else besides that?

A. Well, I ask them to help me on the mills sometimes. I ask permission of Mr. Gates if I can have a man to help me.

Q. When Mr. Gates isn't there, who takes charge of the bull gang?

A. Well, whoever wants to have them. They don't take charge. Sometimes they come to me and ask if I have a job to give them, something to do.

Q. And you assign them whatever work you have to do? [327]

A. Yes.

Q. I see. Was it a part of your job at that time to make recommendations as to hiring and firing?

A. No, sir.

Q. You have never done that?

A. No, sir.

Q. Are you ever asked by your superiors as to what your opinion of a certain man's work is?

A. No, sir.

Q. You don't recall ever having been asked that?

A. No, sir. He just does his own mind making up on who's who.

Q. And he doesn't depend on you at all?

A. No, sir.

Trial Examiner Paradise: Who is your superior?

The Witness: Mr. Gates.

Q. (By Mr. Cobey) So in the 18 years you have been there, you don't recall of Mr. Gates com-

(Testimony of Allan Hook.)

ing to you and asking you about the work of any particular man?

Mr. Watkins: Mr. Cobey, I can hardly hear you and I am only about four feet away.

Mr. Cobey: I am sorry.

The Witness: No, I don't think he has ever asked me. He just uses his own judgment. If he finds a good man, he generally takes him away.

[328]

Q. (By Mr. Cobey) Mr. Hook, will you tell us what wages you have been receiving since August, 1937?

A. I was raised—let me see now—it was during the depression I was getting between 70 and 75 dollars a month. Then we had a raise. I can't exactly recall this——

Trial Examiner Paradise: Well, let's take it from the other end. What are you receiving at the present time?

The Witness: I am getting \$115 a month at the present time.

Trial Examiner Paradise: And did you get a raise in the fall of 1940?

The Witness: Yes. I think I was getting \$100.

Q. (By Mr. Cobey) You were getting \$100 in the fall of 1940?

A. Yes, sir. I believe that is correct.

Q. Now, were you raised from \$75 to \$100 at one jump? A. I don't recollect.

Q. Now, do you recall what you were making

(Testimony of Allan Hook.)

in August and September of 1937? It was somewhere between \$75 and \$100 a month, wasn't it?

A. Yes, it was between that amount.

Q. Now, Mr. Hook, you were on the pre-organization committee of the Consolidated Seedsmen's Union, were you not? A. Yes, sir.

Q. You also were an incorporator and you were a director just for one day, the day of the incorporation, were you not? [329] A. Yes, sir.

Q. Then you were a director again, you were elected director again for Division 3 last July, was it not? Or was it later than that?

A. Last July—I believe we didn't have an election until October.

Q. Until October of last year?

A. I think you will find it there in the minutes of October. It was kind of late.

Q. They forgot about the election?

A. Yes. It was brought up on the floor about the election.

Q. Then you were elected president on April 1st of this year; is that right? A. Yes, sir.

[330]

Q. (By Mr. Cobey) Do you happen to know whether or not the Consolidated Seedsmen's Union is now negotiating for a closed shop contract with the company? A. Not yet. Not at present, no.

Q. Not at present? A. No.

Q. There were plans to that effect under consideration, were there not? A. Yes, sir.

(Testimony of Allan Hook.)

Q. (By Mr. Cobey) Now, calling your attention to the period of August and September, 1937, do you recall certain meetings [331] held in the warehouse of the employees?

A. I only recall one meeting in the warehouse.

Q. Will you tell us what you recall about that meeting?

A. Well, I know that practically all the men employees were there. I don't recollect any women being there. I recollect Mr. Hill and Mr. Sage and Mr. Gates present, and Mr. Hill and Mr. Gates were kindly asked to step outside.

Q. By whom?

A. Well, I couldn't exactly say by whom. It seemed by everybody agreeing they should do it, by the assembly. The discussion of the meeting was independent unions.

Q. Was there a speaker there?

A. Well, I couldn't exactly say who the speaker was. I believe Mr. Voorhees was, and a man from Cudahy's.

Q. Now, Mr. Hook, do you recall an election being held at the plant during that same period, that is, in the warehouse?

A. Well, we had—yes, we had an election after the meeting in the Hill Street store.

Q. When did that meeting occur?

A. In the Hill Street store?

Q. Yes.

(Testimony of Allan Hook.)

A. Well, it was the following week or so.

Q. Do you recall what happened there?

A. Well, the discussing of the independent unions, and they decided to have an election on it to decide what they wanted—[332] the members—the employees of the Germain's.

Q. Was the election held then and there?

A. I don't believe. I can't recollect exactly where it was.

Q. Do you recall whether or not you attended any meetings of the so-called department heads——

A. No.

Q. ——during this period?

A. No, I never attended the department heads meetings.

Q. You never attended any meetings of that sort?

A. I don't recollect. Not to my recollection.

Q. You have no recollection on it? A. No.

Q. (By Trial Examiner Paradise) Are you a department head, Mr. Hook? A. No, sir.

Q. Are there any other people who worked in the mills besides yourself?

A. No, not regularly employed.

Q. What are these mills, by the way?

A. They are all cleaning mills, to clean the seeds.

Q. How many are there?

A. We have about 12 or 14 machines.

Q. And you say you are the only one who is regularly employed there? A. Yes, sir. [333]

(Testimony of Allan Hook.)

Q. During the season do you employ more men?

A. Yes. We employ as high as 12 men.

Q. And who runs the milling department when you have 12 people up there?

A. Mr. Gates is always in charge, whether there is one man or 12 men.

Q. Do you give any orders to the other people?

A. Only from Mr. Gates, transfer his orders to the men.

Q. Was Mr. Gates always present on the milling floor? A. No, sir.

Q. Where does he work?

A. He has an office on the fifth floor.

Q. And are you always present on the milling floor? A. Yes, sir.

Q. What sort of orders do you give to the other people on the milling floor, that you say you relay from Mr. Gates? A. Verbal orders.

Q. What sort of orders?

A. Well, he gives me a sheet with the record of the seed, whether it is quarantine or non-quarantine seed, and I have to take this seed and clean it, get the noxious weeds or non-noxious weeds, whichever he wants out, and, I have to get this piled down and get it to them, get it to the mills. If I have no help, I have to do it myself. Sometimes it is heavy and sometimes it might run from two sacks to a thousand sacks, [334] and, naturally, I have to have help and I have to ask him for some help, and when I do that, he will tell me to get such and such a man

(Testimony of Allan Hook.)

working on five to help me. Naturally, he tells me which man it is, and sometimes I have to have them help me on the mills, but I regulate the speed and how fast they put it in, and all that.

Q. And do you tell Mr. Gates when you need additional men to work on your floor?

A. Yes, sir.

Q. You tell him you want to put a couple more men on the mills?

A. No, sir. I don't tell him to put a couple more men on. He generally uses his own judgment, whether I need any more men. Sometimes I have to ask him. Sometimes the seed runs so fast and the machines are running so I have either to shut them down or ask for more help.

Q. I see. And when the work starts to fall off, do you make any recommendation to Mr. Gates about letting some people go? A. No, sir.

Q. You don't do that at all? A. No, sir.

Q. Do you make any reports to Mr. Gates regarding the quality of the work done on the mill floor?

A. No, sir. Sometimes—I attempted to complain about one [335] man one time. The man is present in the room. He didn't do exactly what I asked him to do, so he said he didn't have to do what I told him to do.

I said, "That's all right. Just go down to see Mr. Gates and he will tell you what to do." I said, "I have no further authority over you."

(Testimony of Allan Hook.)

Q. Who is responsible for the discipline on the mill floor? A. Mr. Gates.

Q. Suppose something occurs while Mr. Gates is down on the fifth floor. Does anybody have the duty of reporting it to Mr. Gates?

A. In what way?

Q. Suppose an employee is guilty of misconduct on the milling floor.

A. I just generally—

Q. Who is charged with the duty of seeing he is disciplined?

A. Well, sometimes a man will make a mistake and destroy a lot of seed. Well, naturally, I am responsible for that seed. If it was run wrong, I am responsible. I am responsible to Mr. Gates. It is up to me to see that none of the men working under me or with me can do any damage like that, because it means a lot of money to the company to have any seed destroyed, because you can destroy a lot of seed by mixing one with the other, on account of you can't separate those seeds. It is impossible to separate them in any shape, way or form. So it [336] is up to me to guide the men in their capacities and ask them to do certain things. If they don't do as I ask them, I ask them to go down to see Mr. Gates and give them some other work to do.

Q. Mr. Gates' title is what? Foreman?

A. I believe it is, according to the men's way of knowing, it is foreman.

(Testimony of Allan Hook.)

Q. And is there a sub-foreman in that division—

A. No, sir.

Q. —of the work? A. No, sir.

Trial Examiner Paradise: All right, counsel. Excuse the interruption.

Q. (By Mr. Cobey) Mr. Hook, I show you Board's Exhibit 8. You have testified as to an election. Do you know whether or not Board's Exhibit 8 is the type of ballot that was used in that election?

Mr. Watkins: Mr. Examiner, I object to the question as being argumentative. There hasn't been any dispute on that.

Mr. Cobey: It is merely preliminary.

Trial Examiner Paradise: All right. Answer it.

The Witness: Yes, I believe I have seen that kind of a ballot.

Q. (By Mr. Cobey) Now, Mr. Hook, can you tell me who prepared those ballots? [337]

A. No, sir, I couldn't.

Mr. Watkins: Did you ever ask Mr. Voorhees whether or not he did, Mr. Cobey?

Q. (By Mr. Cobey) Have you any idea?

A. No sir. I wasn't in any way connected with that at all.

Q. You were on the formational committee, weren't you, of the Consolidated Seedsmen's Union, —the preorganization committee?

A. Yes. We only had—I was at one meeting on that.

(Testimony of Allan Hook.)

Q. How was that committee selected?

A. I have no recollection how it was selected.

Q. You don't have any idea how you got on that committee? A. Not exactly.

Q. What is the best of your recollection on the thing?

A. Well, I think it was picked kind of according to the ability of the man.

Q. Who picked them?

A. I couldn't say.

Q. So at the present time you have no recollection, no definite recollection? A. No.

Q. Of how you got on the committee or how the committee was picked?

A. No. It is kind of vague. [338]

Q. Now, Mr. Hook, I show you Board's Exhibit 12-B. It is my understanding that that was the notice that was posted there for the membership in your division. I notice your name on it as department representative. A. Yes, sir.

Q. Now, I call your attention on Board's Exhibit 12-B to item No. 6:

"A better allotment and statement concerning subforemen and their positions."

By "subforemen," to whom are you referring?

A. A sub-foreman is kind of a straw boss.

Q. Do you know the individuals you had in mind?

A. Well, myself—I tried to get myself—what

(Testimony of Allan Hook.)

was my title, whether I should be a sub-foreman or not, and my title was never as such.

Q. I see. What other individuals were included in that reference?

A. I think it was Mr. Nesbit and Mr. Hatfield. I don't believe there was——

Q. How about Mr. Luck?

A. I don't know about Mr. Luck. He was—he had a department of his own. He has a one-man department. We was never sub-foremen. We was never admitted to being foremen at all.

Q. Mr. Hook, I call your attention to the six items on Board's Exhibit 12B, for identification. Will you inspect [339] them and then will you tell me which of them represents changes from the working practices existing prior to that time?

Mr. Watkins: Mr. Examiner, I object to that as being cumulative testimony and not being relevant to the issues in this proceeding, in any event.

Mr. Cobey: It is highly relevant.

Trial Examiner Paradise: Overruled.

The Witness: Well, we got the hours changed, I believe.

Trial Examiner Paradise: Let's start with No. 1: Six holidays during the year.

The Witness: Well, we always had those.

Trial Examiner Paradise: Now, take No. 2.

The Witness: We had those.

Trial Examiner Paradise: You had No. 2?

The Witness: One week vacation with pay. Well,

(Testimony of Allan Hook.)

we did have it stopped one time, during the depression.

Q. (By Mr. Cobey) Had you got it in 1936 and 1937, do you recall? A. Yes, I believe we had.

Trial Examiner Paradise: All right, take No. 3 now on Board's Exhibit 12-B.

The Witness: I always asked for time and a half for myself, and I always got it, so long as I worked at Germain's. I was speaking of myself.

Q. (By Mr. Cobey) What about No. 4? [340]

A. I believe we used to work as high—when I first started to work, we worked as high as eight and a half hours a day six days a week.

Q. Do you recall whether or not the change in hours was made at that time or a year later, in 1938, when the Wage & Hour Law came into effect?

A. I don't recollect.

Q. Now, as to item No. 5. A. I think—

Q. This is on Board's Exhibit 12-B.

A. I don't have a clear recollection of the dates of the pay raises.

Q. Can you amplify the statement there on item No. 6 on Board's Exhibit 12-B? I think you have already given some testimony in that regard.

A. Yes. As I said before, we had a mistaken idea what our capacities was, whether it should be classed as sub-foreman and get more money than that. I think that was the general idea, was to get our money above the ordinary man, our pay, you see, for being a little more responsible for the type

(Testimony of Allan Hook.)

of work we was doing, and that is the only way we really asked to get the more money, for giving us a title.

Q. A new classification?

A. Yes. But I don't think—I didn't get that.

Q. Now, you recall Board's Exhibit 12-B quite clearly, don't [341] you? Did you write that up yourself?

A. No, sir.

Q. Or did Mr. Hatfield write it up?

A. No, it is not my writing.

Q. Do you happen to know who wrote it up?

A. No, sir. I don't recognize the writing.

Q. But you do remember such a document being posted?

A. Yes, sir.

Q. On that date or on or about that date, December 22, 1937?

A. Somewhere around that time, I believe.

Q. Now, Mr. Hook, I call your attention to Board's Exhibit 12-A. I am going to ask you certain questions in regard to that. Now, these items 6 and 7 as to promotional, layoff or seasonal seniority, what had been the practice of the company in the past in regard to seniority?

A. Well, we never had—you mean before we had any agreement whatever with the company?

Q. Yes, before October 5, 1937.

A. Well, as far as the department I worked in, why, they just hired a bunch of men, and if a man was extremely willing, or otherwise, why, they tried to keep him on. If there wasn't enough work for them to do, why, they laid them all off, you see.

(Testimony of Allan Hook.)

Q. They didn't follow seniority?

A. Not exactly, no. They just kept the best men.

[342]

Q. Do they follow it more closely since that time?

A. Since we had an agreement with the company, they tried to follow it. I think they did follow it too, as far as——

Q. Mr. Hook, would you examine the remainder of Board's Exhibit 12-A? I think most of it relates to other departments besides your own, but you just check it over. That is from——

A. From 7?

Q. From item—— A. 8?

Q. ——from 8 on.

A. You see, I know nothing about all this business at all.

Q. You know nothing about those other items?

A. No, sir.

Q. They are outside of your department?

A. Yes, sir, way outside.

Mr. Cobey: Will you mark this, for identification, please?

(The document referred to was marked as Board's Exhibit 20, for identification.)

Q. (By Mr. Cobey) Mr. Hook, I show you a piece of paper which has been marked, for identification, as Board's Exhibit 20. Now, in that respect I ask you whether or not you did not submit a petition in the form of Board's Exhibit 20, for

(Testimony of Allan Hook.)

identification, to the board of directors of the Consolidated [343] Seedsmen's Union in February of 1938? This will probably refresh your recollection.

(Handing document to witness.)

A. You say this was not presented—

Q. Would you read my question, please?

(The question was read by the reporter.)

Mr. Watkins: Do you understand the question, Mr. Hook?

The Witness: I know I got this petition up. This is my handwriting.

Mr. Watkins: Do you understand the question?

The Witness: I don't exactly get it. Whether did I present this to the board of directors?

Trial Examiner Paradise: That is the question, yes.

The Witness: That is the question. I think—I don't know whether I gave it to the Board of Directors. I don't think I was—was I a director at that time?

Mr. Cobey: No, you were not.

Trial Examiner Paradise: Well, at any rate, the witness said he prepared the petition.

The Witness: I prepared the petition and passed it around, and if I was a representative at that time, I gave it to the director and the director would bring it up at the meeting.

Trial Examiner Paradise: Whether you presented it or not, it was presented to the Board of Directors? Is that [344] right?

(Testimony of Allan Hook.)

The Witness: Yes, sir.

Trial Examiner Paradise: In February, 1938?

The Witness: Yes, sir.

Trial Examiner Paradise: All right.

Q. (By Mr. Cobey) Do you know what action was taken on that petition, that is, Board's Exhibit 20, for identification?

Mr. Watkins: Don't the minutes reflect that?

Q. (By Mr. Cobey) Do you have any recollection on that?

Mr. Watkins: I object to the question as calling for not the best evidence and calling for hearsay. The minutes will reflect the action.

Trial Examiner Paradise: Is that not so, Mr. Cobey?

Mr. Cobey: Yes. The minutes do reflect inaction on this petition.

Trial Examiner Paradise: Isn't that the best evidence then?

Q. (By Mr. Cobey) Were you ever advised as to the action taken on that petition?

A. I don't—

Q. You don't understand the question?

A. Yes, I think it was put over until the next meeting. I don't think there was enough members to decide on that, other members of the union.

Mr. Cobey: I offer Board's Exhibit 20, for identification, [345] in evidence.

Mr. Watkins: No objection.

(Testimony of Allan Hook.)

Trial Examiner Paradise: It is received.

(The document heretofore marked as Board's Exhibit 20, was received in evidence.)

Q. (By Mr. Cobey) Mr. Hook, calling your attention to the month of September, 1940, can you tell us whether or not at that time you prepared a petition for wage increases?

A. Yes, I believe I did.

Q. Can you tell us the circumstances under which you prepared it?

A. Well, the circumstances was rather funny at the time. I think there was a truck driver come upstairs and he wanted me to go before—with him and another man——

Q. Was that Robert Montgomery?

A. Yes, I believe that is his name; a truck driver. And I told him at the time I couldn't do anything unless it was through the union, and I didn't want—

Q. That is the Consolidated Seedsmen's Union?

A. Yes, sir.

Trial Examiner Paradise: Excuse me for interrupting. What was it Montgomery wanted you to do?

The Witness: He wanted me to go before the firm and ask for the raise. I told him the proper manner was to get up a petition, under the sanction of the union, the Consolidated [346] Seedsmen's Union, to present to the company in the proper, legal manner, and I didn't want anything to do with that way of doing business.

(Testimony of Allan Hook.)

So I think he went down and got Mr. Eric Hulphers, and in that way they got all of the men to go in to see Mr. Meyberg.

Q. (By Mr. Cobey) Do you know whether he got anybody else besides Mr. Hulphers?

Mr. Watkins: Just a minute. I object to that as being hearsay, and also as having been testified to by the parties involved in the transaction.

Trial Examiner Paradise: Overruled.

The Witness: I don't think there was any—

Q. (By Mr. Cobey) Specifically, do you know whether he got Mr. Charles Loy?

A. I don't know whether he was involved or not; I mean, in the conference, in getting the men together, but we all went to Mr. Meyberg's office.

Q. That was after quitting time that same day?

A. I couldn't exactly state.

Q. Do you know about when you drew up this petition? In other words, was it that same day that Montgomery came up to you that you prepared this petition? A. I am not sure on that point.

Q. Well, do you know how many days later it was? [347]

A. Oh, it was in the immediate vicinity of that time.

Q. Either the same day or a few days after that? A. Yes sir.

Q. Can you state the substance of that petition?

A. Well, the idea was that everybody wanted a raise, and it come from the management that

(Testimony of Allan Hook.)

somebody get something specific up, so as to present to them, and I made kind of a summary, that summary there, and each man decided what each one wanted. I think it was for \$110 a month, and I put down for myself \$125 a month.

Q. Now, as I understand it, then, you say that the management had asked that something specific be put before them?

A. I think that was the general idea.

Q. Was that the meeting that was held after quitting time in Mr. Meyberg's office?

A. I don't know whether which meeting was held, but that's how that petition got to be made.

Q. I see. Then you drew it up, and did you circularize it?

A. I circularized it around the departments 5 and 6. They asked me to do it, this certain person. I couldn't swear who it was, but they delegated me to pass it around.

Q. You don't know who it was that delegated you?

A. No, sir.

Q. Did it go beyond departments 5 and 6?

A. Well, it was just they wanted my departments, so that they [348] could get a fair understanding of what each person wanted.

Q. Do you happen to know whether or not that petition was ever presented to the management?

A. I don't know whether it was presented. I turned it in to—I think I turned it to Mr. Hatfield.

(Testimony of Allan Hook.)

I don't know whether it was presented to the company.

Q. To whom did you turn it over?

A. To Mr. Hatfield, I think. I am not sure. I turned it to the director at that time.

Q. To the director of your division—

A. Yes.

Q. —of the Consolidated Seedsmen's Union?

A. Yes. You see, they had several—I think somebody resigned and somebody was appointed. In that way I get the names mixed up.

Mr. Cobey: I see.

Mr. Watkins: Mr. Cobey, may I ask a question at this time that will probably save having to go back over this in order to refresh his recollection?

Mr. Cobey: Yes.

Mr. Watkins: I will ask you whether or not this petition you are referring to was circulated on company time?

The Witness: Yes, I believe it was.

Mr. Watkins: That is all. Thank you.

Q. (By Mr. Cobey) Now, Mr. Hook, referring to Board's Exhibit [349] 20, was that also circulated on company time? As a matter of fact, I don't think you have testified you circulated it. I think you testified you drew it up. Did you circulate that one in February, 1938, Board's Exhibit 20? Did you circulate that as well?

A. I don't recollect it.

Q. You don't recall?

(Testimony of Allan Hook.)

A. No, I don't recall.

Q. Now, calling your attention again to this second petition—

A. Yes.

Q. —the one in September of 1940. You say that you put yourself down at that time for \$125, as you recall?

A. I think I had it \$120 or \$125.

Q. Do you recall any discussion among the fellows, that is, the employees with you, as to why you put yourself down for \$125?

A. Well, they all seemed—they wanted me to put that down, all the other employees, except some—

Q. Did you make any statement in that regard?

A. (Continuing) —except some employees in other departments, they didn't like that, because they thought maybe I wasn't—

Q. Well did you make any statement with respect to your position and responsibilities at that time, in explaining why you put yourself down for \$125? [350]

A. Well, I had bigger responsibility. My position is a bigger responsibility, and I really thought at that time it demanded more money than the average man.

Q. I see. Do you recall whether or not you suggested that you be listed on that petition as a subforeman?

A. Well, the men seemed to think I should be

(Testimony of Allan Hook.)

listed as a sub-foreman. It was the general opinion of the men.

Q. I see. Now, Mr. Hook, did you always keep your dues up in the Consolidated Seedsman's Union?"

A. I did kind of get lax in them at one time.

Q. That was during 1938, was it not? Do you recall?

Mr. Watkins: I object to that, Mr. Examiner. It has no bearing on the issues involved in this case.

Mr. Cobey: It is merely preliminary, Mr. Examiner.

Trial Examiner Paradise: I will take it subject to a motion to strike.

The Witness: Do I have to answer?

Trial Examiner Paradise: Yes. Read the question, please, Miss Reporter.

(The question was read by the reporter.)

The Witness: I believe it was some time during that period.

Mr. Cobey: Will you mark this, please?

(The document referred to was marked as Board's Exhibit 21, for identification.) [351]

Q. (By Mr. Cobey) Mr. Hook, I show you a document marked Board's Exhibit 21, for identification. Would you examine that and state whether or not you ever received the copy of such a letter as Board's Exhibit 21, for identification?

(Testimony of Allan Hook.)

(Handing document to witness.)

A. Yes, I think I recollect something to that effect.

Q. It is your recollection that you did receive some letter like that?

A. Yes, I think I did, something like that.

Q. From the Consolidated Seedsmen's Union?

A. Yes, sir.

Mr. Cobey: I ask that Board's Exhibit 21, for identification, be admitted in evidence.

Trial Examiner Paradise: Any objection?

Mr. Watkins: No, we have no objection.

Trial Examiner Paradise: It is received.

(The document heretofore marked as Board's Exhibit 21, was received in evidence.)

BOARD EXHIBIT 21

Consolidated Seedsmen Union Inc.

Los Angeles, Calif.

May 23, 1939

Dear Mr.

During the last few months the Consolidated Seedsmen Union Inc. has made sincere efforts to unite its members and increase its efficiency. In striving for this goal the members of the Union who are in good standing have come to the conclusion that the members who are not in good standing are a hinderance and in some cases a detriment.

(Testimony of Allan Hook.)

Consequently they think that the members in poor standing are not entitled to any benefits gained or achieved by the Union.

Therefore action has been taken to change the laws of the Union in the following manner: Any member who is two (2) months in arrears with his dues will be given notice that in the event All of the dues are paid up at the third month; the member will be forced to drop his affiliation with The Consolidated Seedsmen Union. Which will mean among other things that his name will appear on the list which goes to Mr. Meyberg each month as Non-Union Members and the list from which any future lay-offs are to be chosen.

This hereby constitutes your notice; and we ask you to realize the seriousness of this.

Sincerely,

CONSOLIATED SEEDSMEN UNION

R. KADOUS,

Pres.

Q. (By Mr. Cobey) Now, Mr. Hook, at the time the delinquency in your dues was called to your attention, do you remember whether or not you took up the matter of your remaining a member of the Consolidated Seedsmen's Union with anybody?

Mr. Watkins: I submit, Mr. Examiner, that hasn't any bearing on the issues involved in this case, and we object to it on that ground. It seems

(Testimony of Allan Hook.)

to me there should be enough [352] material things so that we should not have to clutter the record with matters of this kind.

Mr. Cobey: It is preliminary, Mr. Examiner.

Trial Examiner Paradise: I will take it subject to a motion to strike. Answer the question.

The Witness: That is—

Mr. Cobey: Pardon me?

The Witness: I didn't get that.

Mr. Cobey: Would you read the question?

The Witness: I don't get that meaning. Is it objection sustained, or—he says it different.

Trial Examiner Paradise: You will have to answer the question.

The Witness: I have to answer it?

Trial Examiner Paradise: Yes.

The Witness: The reason I didn't pay my dues, —I think it was because I wasn't getting a receipt.

Q. (By Mr. Cobey) Pardon me for interrupting you. I didn't ask you for the reason why you didn't pay them. I asked you: At the time the failure to pay your dues was called to your attention by this letter, along about this time, didn't you take the matter up with another individual? Didn't you have a discussion on that point?

A. No, I don't believe I had a discussion.

Q. Specifically, I am asking you: Do you or do you not [353] recall going down and talking to Mr. Meyberg about it?

A. Yes, I talked to Mr. Meyberg.

(Testimony of Allan Hook.)

Q. About when was that?

A. When I received that letter, after I received that letter I asked him——

Q. That letter is dated May 23, 1939. So it was some time around then? A. Yes.

Q. And the letter referred to is Board's Exhibit 21. Now, was anybody else present besides yourself and Mr. Meyberg? A. No, sir.

Q. Will you tell us what was said?

A. I asked—I went to Mr. Meyberg and asked him if he had a closed shop agreement with the union. He said, "No."

I asked him if I would get laid off if I didn't pay my dues or belong to the union. He said, "No."

I asked him if it would be—I told him the reason I didn't pay my dues was because I wasn't getting a receipt for the money that was being paid into the union, and I believed the union should give a receipt to our group, and it wasn't sustained on the floor, and I really—I objected to paying dues if they didn't give a receipt. That was my objection to paying dues.

I didn't really drop from the union. I was still a member of the union. [354]

Trial Examiner Paradise: All right. Now, tell us what Mr. Meyberg said, please.

The Witness: Well, he said, "To keep harmony in the firm, it is better to join the union, the fifty cents a month doesn't break you. It is immaterial, the amount you pay to the union." He said, "To

(Testimony of Allan Hook.)

keep harmony in the firm, it is best to join, to keep paying your dues.”

Q. (By Mr. Cobey) Do you recall whether he said anything about the desirability of a man in your position remaining in the union?

A. No, sir.

Q. You don't recall that?

A. No, sir. He didn't say that. I don't believe he said that.

Q. You don't believe he said that?

A. No, sir. [355]

Q. (By Mr. Cobey) Perhaps this next inquiry is subject to the same objection. I wish to ask, Mr. Hook, as to whether or not you have collected any dues for the Consolidated Seedsmen's Union?

A. Yes, I have collected dues as representative.

Q. You collected them during 1940, or a part of 1940? Is that right? A. 1940? [356]

Q. You collected them on the job?

A. Well, any time I could get the men to fork over the fifty cents.

Q. Whether that was during or after working hours?

A. Well, sometimes you would ask them and they would have their money in their clothes, and you would go up where they kept the clothes and they would give it to you.

Q. Did you ask the men on the job?

A. Yes, on the job.

(Testimony of Allan Hook.)

Q. Did you ever engage in any solicitation of membership for the Consolidated Seedmen's Union? A. I don't believe so. [357]

DANIEL G. HATFIELD,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Paradise: State your name and address, please.

The Witness: Daniel G. Hatfield, 1225 South Mariposa Avenue.

Q. (By Mr. Cobey) Mr. Hatfield, you work down at Germain's, don't you? A. Yes, sir.

Q. How long have you worked there?

A. About 22 years.

Q. Will you tell us what you were doing down at Germain's in August and September of 1937?

[360]

A. Filling orders.

Q. You were filling orders on what floor?

A. Fifth and sixth.

Q. Fifth and sixth floors. Were any people working up there with you at that time?

A. Well, yes and no. I have a man when I have a need for him. Otherwise, I do it myself.

Q. And you have only this one helper?

(Testimony of Daniel G. Hatfield.)

A. Yes, sir.

Q. And there isn't anybody up on the—what is it—fifth and sixth floors?

A. Fifth and sixth floors.

Q. —except you and your helper, whenever you need him? A. That is all.

Q. Has that condition existed, I mean, right along since September, 1937? A. Oh, yes.

Q. I mean, there has been no change?

A. No change whatever.

Q. Now, what were your wages at that time, that is, in September, 1937? A. \$90.

Q. \$90 a month. How much are you getting at the present time? A. \$115. [361]

Q. \$115. You were raised from \$100 to \$115 last fall? A. Yes, sir.

Q. Now, coming back again to September of 1937, or August of 1937, can you tell us whether or not you did any talking to the employees about the A. F. of L.? A. Yes, sir.

Q. You did? A. Yes, sir.

Q. Did you join the A. F. of L. at that time?

A. No, sir.

Q. You did not. Do you happen to recall whether or not you ever had any arguments with Mr. Sage on the A. F. of L. and independent union?

A. Yes, sir.

Q. About that time do you recall having any arguments with Mr. Sidebottom? A. No, sir.

Q. You didn't argue with Mr. Sidebottom?

(Testimony of Daniel G. Hatfield.)

A. No, sir.

Q. But you do recall having some arguments with Mr. Sage? A. Yes, sir.

Q. Where were the arguments held?

A. In the building.

Q. Up on the fifth or sixth floors?

A. Yes, sir. [362]

Q. Now, I think you were a director of division 3, weren't you, for the Consolidated Seedsmen's Union from September, 1937, to July, 1938?

A. Yes, sir.

Q. Now, you were in the court room when Mr. Hook testified, weren't you, Mr. Hatfield?

A. Yes, sir.

Q. I show you Board's Exhibit 12-B, and after you have examined that and have thought of Mr. Hook's testimony in that respect, would you tell us whether or not your testimony would be any different in regard to those items?

Mr. Cobey: Is that agreeable to you? That is just to save time.

Mr. Watkins: Fine.

The Witness: Yes, sir.

Q. (By Mr. Cobey) Your testimony would be the same as that of Mr. Hook as to Board's Exhibit 12-B? A. Yes, sir.

Q. Is that your handwriting?

Trial Examiner Paradise: Referring to what, counsel?

(Testimony of Daniel G. Hatfield.)

Mr. Cobey: Pardon me. Board's Exhibit 12-B?

The Witness: Here (indicating)?

Q. (By Mr. Cobey) Yes. A. No, sir.

Q. You don't know who wrote that? [363]

A. No, sir.

Q. But you remember that notice being posted, referring again to Board's Exhibit 12-B?

A. Yes, sir.

Q. Now, Mr. Hatfield, did you sign that petition for a wage increase last fall that Mr. Hook got up?

A. No, sir.

Q. You did not? A. No, sir.

Q. Did you sign either one of the petitions?

A. No, sir. Last fall, you mean?

Q. Yes. You didn't sign either one of those petitions? A. No, sir.

Q. Now, do you ever have any more than one helper up on the fifth and sixth floors?

A. At times, whenever I got more than the two of us can handle, then I always can get help.

Q. What are your duties up there?

A. Filling orders.

Q. You just fill seed orders?

A. Anything that comes in my stock.

Q. Anything that comes in your stock?

A. Yes. I have two floors and fill orders on both floors.

Q. Who relays the orders up to you?

(Testimony of Daniel G. Hatfield.)

A. They come up by air tube, written orders.

[364]

Q. By air tube. And you just go around and fill the orders? A. Fill the orders.

Q. And you occasionally have one helper?

A. Yes, sir.

Q. And then, if business demands, you have more, is that right? A. Yes, sir.

Q. Now, do you go down and tell Mr. Gates that you want more helpers?

A. Yes, sir, whenever possible.

Q. Whenever possible?

A. If I get a hurry up order, and he isn't around, I just grab anybody that is there.

Q. You grab anybody that is there and tell him to help you out? A. Yes, sir.

Q. That would generally be one of the fellows from the bull gang? A. Yes, sir.

Q. Now, this helper that you have, is he or not pretty regularly employed? A. Yes, sir.

Q. He is on there pretty permanently. How much does he get, do you know, at the present time? A. \$100, I think. [365]

Q. (By Mr. Cobey) Mr. Hatfield, do you recall whether or not at any time you have reported to Mr. Gates upon the quality of work that is done either by your helper or by the members of the bull gang— A. No, sir.

Q. —in filling orders for you?

A. No, sir, never did.

(Testimony of Daniel G. Hatfield.)

Q. You never have? A. No, sir.

Q. So far as you recall, you have never complained or made any other type of comment upon any employee's work? A. No, sir.

Q. The only thing is that when you have to have that extra help, you tell them what to do and see that they do it properly; is that right?

A. Yes, sir. [366]

Q. You are responsible for the proper filling of the order for seeds— A. Yes, sir.

Q. —on the fifth and sixth floors?

A. Yes.

VIVIAN J. NESBIT,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Paradise: Will you state your name and address, please?

The Witness: Vivian J. Nesbit. [367]

Trial Examiner Paradise: What is it?

The Witness: Vivian J. Nesbit.

Trial Examiner Paradise: How do you spell your first name?

The Witness: V-i-v-i-a-n; not Miss. 817 West 103rd Street.

Q. (By Mr. Cobey) You work down at Germain's? A. Yes, sir.

(Testimony of Vivian J. Nesbit.)

Q. How long have you worked there?

A. About seventeen years.

Q. What were you doing down there in August and September of 1937?

A. Filling orders; working on the fourth floor.

Q. Working on the fourth floor?

Mr. Watkins: Speak up just a little louder, will you, Mr. Nesbit?

The Witness: Yes, sir.

Q. (By Mr. Cobey) As I understand it, you have worked on the fourth floor since then?

A. Yes, sir.

Q. How many persons work on the fourth floor? That is, what is the number of employees that you have on that floor, on the fourth floor?

A. Five at present.

Q. Five employees. Has that number remained fairly constant [368] during the last four years?

A. No, it is seasonable.

Q. It is seasonable?

A. On the way the orders come in, why, the—

Q. How low does it drop?

A. Well, it has dropped to two of us on the floor.

Q. How high has it gone?

A. Five is the—

Q. This is all within the limitations of the last four years? A. That's right.

Q. So that it has varied from two to five?

A. Well, within—I wouldn't say four years,

(Testimony of Vivian J. Nesbit.)

because in the last four years we have had more than that.

Q. I see. What is the lowest you have had in the last four years? A. Three or four.

Q. Three or four. So I would gather from that that it has stayed fairly constant, around four? I mean, the average has been around four, is that right? A. The average, yes.

Q. In the last four years. Now, what were you making in August, 1937? A. \$90.

Q. What are you getting now? A. \$115.
[369]

Q. You were raised from \$100 last fall?

A. From \$105.

Q. From \$105. Now, who is your superior?

A. Mr. Hill.

Q. Has he been your superior during the last four years, that is, your immediate superior?

A. No; between he and Mr. Gates.

Q. It has varied? A. It has varied.

Q. I see. Now, is the fourth floor a separate department?

A. Well, no, it is in conjunction with the shipping department now.

Q. It is in conjunction with the shipping department? A. Yes.

Q. Well, now, neither Mr. Hill nor Mr. Gates are stationed on the fourth floor, are they?

A. No, sir.

Q. Where are they stationed?

(Testimony of Vivian J. Nesbit.)

A. Mr. Gates has an office on the fifth floor.

Q. He has an office on the fifth floor. Pardon me.

A. And Mr. Hill has an office on the shipping floor.

Q. Who assigns the work to the men on the fourth floor?

A. Well, there is really no one that assigns the work. That is, the daily orders, they come in and the men that works there, know what it is, and they have to go out then and tell them to [370] make deliveries and what work is to be done.

Q. You are the most experienced man on the floor, aren't you?

A. The oldest man, yes, sir.

Q. The oldest man on the floor. Have you ever been in charge of that floor? A. Never.

Q. You have never been in charge of it?

A. No, sir.

Q. Do you recall an interview that you had with Mr. Gould, an examiner from the Labor Board?

A. Yes, sir.

Q. Accompanied by Mr. Watkins?

A. Yes, sir.

Q. Do you recall whether or not you told him that you thought that at one time for about six months you had been in charge of that floor?

A. Well, that was—I recall that—that was during the time it was switched from Mr. Hill to Mr. Gates, and then from Mr. Gates to Mr. Hill again, but my idea of being in charge is being in charge,

(Testimony of Vivian J. Nesbit.)

you know, so as to hire and fire, of which I have never been in charge.

Q. Have you ever recommended any hiring or firing.

A. I never have. I never recommended a man.

Q. Have you ever made any comments upon the work performed [371] by the men working with you to Mr. Gates or Mr. Hill?

A. No. Only when I have been asked, when they come to me and ask me if—which man has been there longer, then I can tell them, because I know, but, of course, that record is in the office, they can find out.

Q. In connection with lay-offs, do they ever come to you and ask you about which man should be laid off? A. No, sir.

Q. They don't?

A. Only like I said, if one man has seniority.

Q. Nobody has ever asked you as to the quality of the work done by the other men up there on the fourth floor? A. No, sir.

Q. Now, when Mr. Hill or Mr. Gates are away or sick, who is responsible for the operation of the fourth floor?

A. Well, there is no one that is responsible, as far as that goes. There is no business—all the men are there and they know what to do.

Q. Now, if anything out of line occurs up on the fourth floor, whose duty is it to report it?

(Testimony of Vivian J. Nesbit.)

A. Well, of course, if I am called down to the office, and I have a waiting order there, I will ask the man to fill this order until I come back. Yes, I do that.

Q. But, as I understand it, neither Mr. Hill nor Mr. Gates are stationed on that floor, are they?

[372]

A. That is right.

Q. You were director of the Consolidated Seedsmen's Union for Division 3 from January, 1938—I mean, July, 1938 to July, 1939? Is that right?

A. I was, yes, sir.

Q. I call your attention to Board's Exhibit 12-B. Do you [373] happen to know—I will just ask you for your own knowledge—if you happen to know who are referred to there as sub-foremen?

A. No, I don't.

Q. You don't know? A. No, sir.

Q. Now, you were in the court room when Mr. Hook testified, were you not? A. Yes, sir.

Q. I want you to examine Board's Exhibit 12-B, and I will ask you just generally: Would your testimony in that regard be the same as Mr. Hook's, that is, with the exception of sub-foremen, just in regard to the working practices?

A. Yes, that would. [374]

STANLEY WATSON,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Paradise: State your name and address, please.

The Witness: Stanley Watson, 1926 Estrella.

Q. (By Mr. Cobey) Avenue?

A. Avenue.

Q. L. A.? A. Yes.

Q. Mr. Watson, you work down at Germain's?

A. Yes, sir.

Q. How long have you worked there?

A. Approximately seven years.

Q. You have been a truck driver the whole time? A. No.

Q. I am sorry. What have you done?

A. For about a year and a half I worked on the sixth floor in the bull gang.

Q. And since then you have been a truck driver?

[375]

A. Yes, sir.

Q. Now, I think you were president of the Consolidated Seedsmen's Union from February 6, 1940 to September 23, 1940?

A. Well, I don't recall the dates. If that is what is in the book, why, it's right.

(Testimony of Stanley Watson.)

Mr. Cobey: Will you mark this, for identification, please?

(Thereupon the document referred to was marked as Board's Exhibit 22, for identification.)

Q. (By Mr. Cobey) I show you, Mr. Watson, Board's Exhibit 22, for identification. Is that an accurate statement of the meeting at which your resignation was asked and received? Is that a correct statement?

(Handing document to witness.)

A. It is.

Mr. Cobey: I ask that Board's Exhibit 22, for identification, be admitted in evidence.

Mr. Watkins: May I see it just a minute, please?

The Witness: The last part, about that matter, I didn't know about that, Mr. Cobey. The proceedings of that was right, except for the last where it said to meet with Mr. Meyberg. That happened after I left the office.

Q. (By Mr. Cobey) Where was the special meeting that was referred to held?

Trial Examiner Paradise: Just a minute. Any objection [376] to the receipt of Board's Exhibit 22?

Mr. Watkins: No, your Honor.

Trial Examiner Paradise: All right. It is received.

(Thereupon the document heretofore marked for identification as Board's Exhibit 22, was received in evidence.)

(Testimony of Stanley Watson.)

BOARD EXHIBIT 22

Copied from minute book of Consolidated Seedsman's Union. Proofread by Gladys Van Sickle, April 17, 1941.

SPECIAL MEETING
BOARD OF DIRECTOR'S

A special meeting of the Directors of the Consolidated Seedsmens Union was called at 10:50 A. M., Monday, September 23rd, 1940.

Stanley Watson was asked to resign because of the A. F. of L. affiliations. He refused to do so and stated that he had planned to do so after October 15th, 1940. After refusing to resign he was then voted out of the office of President by a unanimous vote. It was pointed out to Mr. Watson by Mr. Hook that according to law he couldn't be affiliated with one Union and hold office in another.

Fern Wingrove then nominated Jack Butterfield for president and the nomination was seconded by Miss Sievers and carried by a five to one majority.

Mr. Butterfield was called in and accepted the office with the understanding that he would receive the cooperation of the Union members.

The meeting then adjourned to meet immediately with Mr. Meyberg.

/s/ RUTH SLEE,

Acting Secretary.

/s/ JACK BUTTERFIELD,

President.

(Testimony of Stanley Watson.)

Q. (By Mr. Cobey) Where was that special meeting of the board of directors referred to in Board's Exhibit 22 held?

A. In the library at Germain Seed.

Q. That is in the warehouse?

A. It is on the second floor, in the office.

Trial Examiner Paradise: Is that the first meeting that had ever been held there?

The Witness: To my knowledge.

Trial Examiner Paradise: I beg your pardon?

The Witness: To my knowledge.

Trial Examiner Paradise: Where did they usually hold board of directors' meetings?

The Witness: Well, board of directors' meetings were usually, if they went out for some meeting at dinner or at someone's home. [377]

Cross Examination

Q. (By Mr. Watkins) You testified to a meeting in the library of the company on the second floor, that is, a meeting of the board of directors of the Consolidated Seedsmen's Union. Did you get any permission from anyone connected with the management to hold the meeting there?

A. Not that I know of. [382]

HAROLD FRAUENBERGER

Direct Examination (Continued)

Q. (By Mr. Cobey) Mr. Frauenberger, just to make sure that the record is clear on this point, I think that you have already identified certain exhibits, namely, Board's Exhibits 18-A, B and C, testifying to the fact that the union requested recognition and was accorded recognition some time around October 1, 1937. A. Yes.

Q. Now, I understand that you were a member of the original committee, the pre-organization committee? A. That's right.

Q. Can you tell us how that committee was picked?

A. I wouldn't want to make a statement under oath how it was picked.

Q. I see. A. It is——

Trial Examiner Paradise: Do you know how you were selected for that committee? [386]

The Witness: Well, I don't know whether it was the ultimate conclusion of union organization; in other words, debate about organizing our independent union, or whether there was some other method used. I know I was very active at that time in organizing an independent group. [387]

(Testimony of Harold Frauenberger.)

BOARD EXHIBIT 23-A

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING
OF

BOARD OF DIRECTORS

(Meeting of February 1, 1938)

Page 2

Line 16-31

Allan Hook said that so many wanted to know what the funds of the Union were being spent for, and suggested that a summary Treasurer's Report be given at each General Meeting. Also, Allan Hook presented the following petition from Division 3, which petition was held over for further discussion at the next meeting.

“We, the undersigned, agree to the following:

“100.00 per month as a minimum wage for common labor;

Time and a half for overtime;

Five and a half days of 44 hours per week;

Paid for legal holidays;

Vacations—1 year's service to five years—1 week; 5 years and over—2 weeks (paid);

(Testimony of Harold Frauenberger.)

Seniority shall rule;

Closed shop;

(Signed)

F. A. Wall, Jr.

Don L. Cramsey

Roy O. Yoakum

Edward Casey

Paul D. Spence

F. A. Wall

Otto Witt

James Neal

A. Hook

V. J. Nesbit

A. Vanderveer

D. G. Hatfield

Pat Chavez

Alfred A. Freeman”

Stanley Watson explained that the drivers were not being allowed for overtime. He was instructed to present his overtime in writing to Mr. Hill so that the matter could be followed up.

(Testimony of Harold Frauenberger.)

BOARD EXHIBIT 23-D

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING
OF
BOARD OF DIRECTORS
(Meeting of March 1, 1938)

Page 2

Line 9-20

The following petition from the Third Floor, Division 2, was read.

“We the undersigned, employees of the Germain Seed and Plant Co., feel that we should have more money than the seasonal workers. Most of the steady girls have been here for a number of years and are acquainted with the work, and bear the burden of responsibility, and we feel as though we should have at least \$5.00 per month more than the seasonal workers. This suggestion has been agreed upon by the undersigned, and we request it be taken before the management.

Dorothy Davis
Verna Newman
Nyda Hansen
Florence Siemsen
Betty Anderson

(Testimony of Harold Frauenberger.)

Corrine Harger

C. Dempsey

Ann Miller

Ida New

Alice Hook

After a great deal of discussion, it was decided that at this time it is not advisable to approach the firm with the request made in this petition.

The petition presented at the meeting of February 1st by Allan Hook from Division 3 was again read. Like the petition from Division 2, it was decided not to act on this petition at this time.

BOARD EXHIBIT 23-E

Copied from the minute book of Consolidated Seedsman's Union on April 16, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING
OF

BOARD OF DIRECTORS

(Meeting of January 18, 1938)

Page 2

Lines 16-25

Tom Farley reported that the Hill St. and Main St. Store members felt that they should be entitled to have two half days off per month. It was de-

(Testimony of Harold Frauenberger.)

cided that Tom Farley and Harry Fenster should circulate a petition among the members at the two stores, said petition to be prepared by the Secretary, and to request two half days off per month for Union members in good standing only. After securing signatures to this petition, the Board will then discuss the matter of presenting it to the Management of the Firm.

Motion was made by R. Luck and seconded by D. G. Hatfield that a list of grievances be made, and that said grievances be discussed and approved by the Board and then presented by a Committee to Mr. Meyberg. Motion carried.

Q. (By Mr. Cobey) Mr. Frauenberger, I hand you Board's Exhibit 24-A through 24-F, for identification. You have examined this exhibit recently, at my request? A. Yes, sir.

Q. Now, as I understand it, Board's Exhibit 24, for identi- [389] fication, consists of certain excerpts from minutes of the Consolidated Seeds-men's Union held during your term of office as president? A. That's right.

Q. Together with a letter from Mr. Voorhees, the attorney for the union, referred to in those minutes? A. Yes, sir.

Q. Now, to your knowledge, the minutes are accurate, are they not? A. Yes, sir, they are.

(Testimony of Harold Frauenberger.)

Q. Do you know who met with Mr. Meyberg on this matter of supplying a list of those employees who were not members of the Consolidated Seeds-men's Union?

Trial Examiner Paradise: Just so that this line of questioning will be intelligible to the Trial Examiner at this point, will you have the witness testify as to exactly what this was all about? I haven't read the minutes, and I don't know what they have referred to.

The Witness: Well, we did not have a closed shop agreement, and in order to protect our own members, we were endeavoring to bargain with the Germain Seed Company to the effect that non-union members would be discharged in preference—first in preference to our union members.

Trial Examiner Paradise: I see. When did that take place? [390]

The Witness: January 21st, I see the date in here. I would have to refer back to the dating of the minutes.

Trial Examiner Paradise: Well, I don't care for the exact time.

Q. (By Mr. Cobey) It happened during the months of January and February, 1938, did it not?

A. Yes, sir. Well, this was business of the directors. They were, of course, all associated with the business and knew the business. That is as near as I could answer your question.

(Testimony of Harold Frauenberger.)

Q. I see. You don't recall who particularly went in to see Mr. Meyberg on this matter?

A. No, sir, I don't. [391]

BOARD EXHIBIT 24-A

Copied from the minute book of Consolidated Seedsman's Union on April 16, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING
OF

BOARD OF DIRECTORS
(Meeting of January 18, 1938)

Page 2

Lines 26-31

There was considerable discussion in regard to supplying to the firm a list of members not in good standing, said list to be used when lay-offs are made by the Firm, and the possibility of penalizing the members through the advantages they have gained through this Union. The Secretary was instructed to obtain a written legal opinion on this matter from Mr. Voorhees, our attorney.

(Testimony of Harold Frauenberger.)

BOARD EXHIBIT 24-B

VOORHEES' & VOORHEES

Attorneys at Law

5325 Crenshaw Boulevard

Los Angeles

January 21st, 1938

Consolidated Seedsmen's Union, Inc.

2415 Twelfth Avenue

Los Angeles, California

Gentlemen:

We are informed by your secretary, Miss Turton, that you desire an opinion relative to the right of your Board of Directors to furnish the Germain Seed and Plant Company with a list of names of members who are delinquent in their dues and at the same time ask the company to place the names of these employees on a list of those to be laid off first in the event any lay-offs are necessary and to also give such members such types and kinds of work as is least desirable among the employees.

Such an arrangement can be made with the company but should only be done in the form of a written agreement. It, in effect, amounts to what is commonly known as a "closed shop". If it is done without a written agreement the company might be charged with aiding and encouraging a union. If, however, it comes about as a result of negotiations and a written agreement then the com-

(Testimony of Harold Frauenberger.)

pany, and your organization as well, will be adequately protected.

The reason for your inquiry is, of course, that you want in some way to compel your members to pay for the benefits received through your organization. On the other hand, the average employer does not wish to be placed in a position where he has no control over the employing and discharging of his employees. There is, however, a happy medium and solution to the problem which we have worked out in various other independent unions.

We have entered into agreements whereby the management will give preference to members of the union whenever hiring any employees. The management however is not absolutely bound to hire only members of the union. We also have agreements in which the union has a right to recommend the discharge of a member in the event he is expelled from the union for failure to pay dues or for any other reason.

One simple solution has been to have each and every member authorize the company in writing to deduct his or her dues from the pay check. This is, from a legal standpoint, an individual assignment of wages and is good until revoked by the member. It has been found to be one of the most effective ways to collect the dues and it in no way hinders or hampers the company in the hiring and discharging of employees.

(Testimony of Harold Frauenberger.)

May we suggest that you have a conference with the management and see if you can get them to enter into an agreement with you incorporating these various suggestions.

Very truly yours,

VOORHEES & VOORHEES,

By J. P. VOORHEES iu

JPV:iu

BOARD EXHIBIT 24E

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF SPECIAL MEETING OF
BOARD OF DIRECTORS

(Meeting of February 10, 1938)

Page 1

Line 9-17

The Secretary reported that Mr. Meyberg favored the following portion of the letter from Mr. J. P. Voorhees of January 21st: "We also have agreements in which the union has a right to recommend the discharge of a member in the event he is expelled from the Union for failure to pay dues or for any other reason." After considerable discussion, R. Luck was appointed to write

(Testimony of Harold Frauenberger.)

an agreement to be presented to Mr. Meyberg, said agreement to sanction the Union supplying to the firm a list of those employees of the firm who do not belong to the Union, those who have failed to pay their dues, and those who are agitating against the Union.

BOARD EXHIBIT 24-F

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING OF
BOARD OF DIRECTORS
(Meeting of April 5, 1938)

Page 2

Line 13-18

Harold Frauenberger introduced the subject of further negotiations with the firm in regard to supplying a lay-off list. It was decided, after considerable discussion, to have the Secretary inquire of Mr. Voorhees what his fee would be to attend a meeting of the Board of Directors with Mr. Meyberg in regard to drawing up an agreement with the firm in relation to the supplying of a list of members in poor standing to be used for lay-offs.

(Testimony of Harold Frauenberger.)

Q. (By Mr. Cobey) Fr. Frauenberger, I call your attention to Board's Exhibit 25-A, for identification, and specifically to the second page thereof, on which the third paragraph is marked with an "X". Would you state whether that paragraph is a correct statement of the sentiment in that meeting of the members of the Consolidated Seedsmen's Union on the matter of closed shop?

A. Yes, sir. There was a former procedure, I might say, that we gradually worked into; the fact that we would send the driver—in other words, he would go to attempt to make the delivery and he would report back that there was a picket line, and the union, of course, would uphold him if he went to his union. In other words, we felt that in loading the merchandise out on the truck and attempting to make delivery we were acting in good faith, as far as the driver's job or work consisted of. [394]

BOARD EXHIBIT 25-A

Copied from the minute book of Consolidated Seedsman's Union on April 16, 1941, by Gladys Van Sickle.

GENERAL MEETING OF MEMBERS OF
CONSOLIDATED SEEDSMEN'S UNION, INC.

The general meeting of the Members of the Consolidated Seedsmen's Union was called to order by

(Testimony of Harold Frauenberger.)

the President, Harold Frauenberger, at 8:20 P.M. on December 14, 1937, at the Sons of Herman Hall, 25th and Main Streets, Los Angeles, California.

* * * * *

It was the feeling of those present that our drivers, in making deliveries, should recognize picket lines where picketing was for bettering working conditions, wages, and hours; but that where picketing was for closed shop, that the picket lines not be recognized.

* * * * *

/s/ DOROTHY TURTON,
Secretary.

/s/ T. E. FOSLEY,
V. P.

Q. (By Mr. Cobey) Mr. Frauenberger, in connection with your duties down at Germain's do you recall any occasions when you had occasion to speak to Mr. Luck about the delivery of seeds from his floor? A. To what destination?

Q. To any destination? I mean, in other words, would you tell us whether or not you, in the course of your duties, occasionally called up Mr. Luck in regard to the delivery of seeds from his floor to the shipping floor? Is that correct?

A. Well, that was the natural routine of the orders. The orders, of course, were filled in the

(Testimony of Harold Frauenberger.)

stock room and were brought to the delivery department.

Q. I see.

A. And at times a carton of merchandise would be left in the stock room, and in checking you would find that it was short, and that would be the natural inquiry concerning it.

Q. You would call up Mr. Luck and inquire as to the reason for the shortage?

A. Yes, that's correct. [395]

Q. I see. Now, Mr. Frauenberger, calling your attention to September 21st, or thereabouts, 1940, do you recall whether or not you had a conversation at that time with John Epperson, in regard to joining the A. F. of L.?

A. No, I don't.

Q. You don't recall any such conversation?

A. No. There was so much debate, in other words, throughout the year, since the very first talk of unionization, and there has been so much debate pro and con with almost everybody in the organization that I couldn't make a definite statement on a conversation.

Q. You don't recall noticing his A. F. of L. button and his asking you when you were going to join?

A. No; no. No, I don't. We noticed all the buttons, naturally, but I don't remember of any special instance where there was other than just debate, and there was a good deal of that, naturally, pro and con.

(Testimony of Harold Frauenberger.)

Q. You don't recall the conversation or debate on that particular occasion?

A. No, I don't remember of a special occasion.

[396]

Cross Examination

Q. (By Mr. Watkins) Mr. Frauenberger, while you were president, did you purchase any treatise or pamphlet on the Wagner Act?

A. Yes, sir, we did.

Q. For what reason?

A. To attempt to follow it to the best of our ability, as an independent organization bargaining for the employees.

Redirect Examination [397]

Q. Referring to the matter which is mentioned in Board's Exhibits 24-A, B, C, D, E and F, namely, the matter of furnishing the company with a list of members that were not in good standing, for the purpose of having them preferred in the matter of lay-offs and discharges, and so on, it is stated in Board's Exhibit 24-E that:

“The secretary reported that Mr. Meyberg favored the following portion of the letter from Mr. J. P. Voorhees of January 21st: ‘We also have agreements in which the union has a right to recommend the discharge of a member in the event he is expelled from the union for failure to pay dues or for any other reason.’ ”

Then it goes on to say that Mr. Luck was appointed to write an agreement to be presented to

(Testimony of Harold Frauenberger.)

Mr. Meyberg, said agreement to sanction the union's supplying to the firm a list of those members who do not belong to the union, who had failed to pay their dues and who are agitating against the union.

[398]

Now, the minutes of following meetings do not show any further disposition of the matter, beyond a statement that it was decided to have the secretary inquire of Mr. Voorhees what his fee would be to attend the meeting of the board of directors with Mr. Meyberg, in regard to drawing up an agreement in relation to the supplying of a list of members in poor standing to be used for lay-offs. Now, what, if anything, was done in connection with the matter?

A. I don't remember, to make a statement without checking back. Lists were furnished and the lay-offs automatically were gauged that way, naturally, because our own members in good standing would automatically be given preference. In other words, if a union member in good standing was laid off, we immediately went to bat for him and he was reinstated.

Q. Now, was that practice put into effect at about this time? A. Yes, sir.

Q. That is the time referred to in these minutes?

A. Yes, sir. [399]

Q. (By Trial Examiner Paradise) Now, was there ever any notice posted concerning the practice regarding lay-offs, as described by you?

(Testimony of Harold Frauenberger.)

A. It was brought up in the membership meetings and talked over, and discussed and debated.

Q. Now, to what extent did the union seek to have this practice applied? That is, was it limited to members in bad standing of the union, or to people who had not been members of the union at all, or did it include those that were agitat- [400] ing against the union?

A. Members in bad standing that had not paid their dues; that is what we assumed was poor standing, and non-members.

Q. I see. Now, this third classification mentioned in Board's Exhibit 24-E, namely, those who were agitating against the union, was that forgotten about?

A. I don't remember that we were troubled with that.

Q. I see.

A. And that it never came up as a real problem.

[401]

Q. (By Trial Examiner Paradise) Mr. Frauenberger, what was it that precipitated the discussion in your meeting of December 14, 1937 as to the matter of your drivers crossing picket lines? [406]

A. Well, that would be a natural discussion, when you are confronted with a problem of that sort. The drivers, the members, that were affected by picket lines would bring it up in the meeting and tell us about it.

(Testimony of Harold Frauenberger.)

Q. Had there been some drivers who had had the problem at that time?

A. Oh, yes. It was continuous, generally, throughout my term of office.

KENNETH RICHARD LUCK,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [407]

Direct Examination

Trial Examiner Paradise: State your name and address.

The Witness: Kenneth Richard Luck, 637 North Gardner, Los Angeles.

Q. (By Mr. Cobey) Mr. Luck, you work down at Germain's, do you not?

A. Yes, that's right.

Q. How long have you been employed there?

A. Since 1936.

Q. What have been your duties down there? What have you done, in other words?

A. When I was first employed there, I worked under Mr. Pieters in the flower seed and bulb department.

Q. Where is that department located?

A. You mean the address?

Q. No, I mean within the warehouse.

(Testimony of Kenneth Richard Luck.)

A. It is on the third floor of the warehouse, yes. And after a short time there, I don't know just how long, possibly nine months or a year, I took over the bulb department, of course, with Mr. Pieter's supervision, and since the first of this year I have been out in the city and county as a salesman.

Q. I see. Can you tell us what your rates of pay have been?

A. Well, I started there at \$80 a month. I talked to Mr. Meyberg, as purely a trial proposition for both of us. We did [408] not know each other. Then I have been gradually increased.

Q. What are you making now?

A. \$120 a month.

Q. What were you making when you were in charge of the bulb department under Mr. Pieters?

A. \$120 a month.

Q. Now, while you were working in the bulb department, did you have occasion in the course of your duties to talk over the telephone with Mr. Frauenberger?

A. Yes.

Q. Do you happen to recall whether or not he would call you up in regard to shortages, and that sort of thing?

A. That would be one of the many things, yes.

Q. Would he tell you that you had to have the seeds, or whatever it was, down on the shipping floor at such and such a time, or such as that?

A. There are various rules and bulletins on that

(Testimony of Kenneth Richard Luck.)

sort of thing, yes. Those rules varied from time to time. I believe it was his duty to see that the merchandise went out, and if it wasn't ready to go out at a certain time, he was to find out why.

Q. And in that connection he would call you up in your department? A. That's right.

Q. I see. Now, you joined the Consolidated Seedsmen's Union, [409] did you not?

A. Yes.

Q. As a matter of fact, you were a member of the pre-organizational committee and a member of the formational committee, and an incorporator, were you not? A. I believe so.

Q. I think you were also a director of Division No. 2 of that union from September of 1937 to January of 1939? Is that right, or is that your recollection?

A. I was a director of the division that constituted the third floor. I believe it was No. 2. I don't know just what number it had. I think it was for a two-year period. I am not certain.

Q. A two-year period. Then you were director of that division again more recently? Didn't you take somebody else's place, and your term expired in January, 1940? Do you recall whether you did that or not?

A. I am not sure. At various times there was a little difficulty with directors. They either didn't want to serve, or something, and I may have served for a partial term.

(Testimony of **Kenneth Richard Luck**.)

Q. But you don't recall?

A. I am not positive about that.

Q. You were president of the Consolidated Seedsmen's Union from April, 1938, to April, 1939, were you not? A. That's right. [410]

Q. And you were secretary from April, 1939 to April, 1940; would that be correct?

A. That's right.

Q. Now, do you recall how this pre-organization committee was selected?

A. No, I don't know of any real way, how it was selected.

Q. How were you picked?

A. I don't honestly know how I was picked. It seemed like there was a representative from each floor or each group of workers. I don't know of any reason why I should have been picked, except for the fact that there was at the time only one or two other men working on that floor, and the women were somewhat backward about being at all interested in any activity.

Q. Now, this is just in order to expedite things. There has been testimony here that there were a couple of meetings in the warehouse during August and September of 1937, and there was a meeting at the Hill Street store, and that there was an election held in the warehouse. Do you have any recollection whatsoever in regard to that?

A. Yes. I think there have been several meetings

(Testimony of Kenneth Richard Luck.)

of the various groups, I think before the union was organized. There were, naturally, groups of men and employees that got together for meetings, there was one I know of at the Hill Street store, but I don't recall positively whether that was before [411] the union was organized or not.

Q. Do you recall the meetings in the warehouse at all? There has been testimony that there were two meetings in the warehouse.

A. I think there were two, yes.

Q. And at one of them Mr. Sage spoke and at the other Mr. Voorhees and Mr. Sage spoke?

A. I remember Mr. Sage being there. I don't remember Mr. Voorhees. He may have spoken. I don't know. At that time I didn't know Mr. Voorhees.

Q. Now, do you recall what Mr. Sage said at those meetings or that meeting?

A. I couldn't say exactly. Of course, there was talk of unionizing and Mr. Sage talked, I think, with one or two other men, and as I remember, there was talk of the various unions and Mr. Sage said he wasn't in favor it, because he didn't want to join a union, and if the house was unionized he would have to join; something of that nature, anyway.

Q. Do you remember anything else about those meetings at all, as to what was said and what happened?

A. I couldn't say positively what was said. It

(Testimony of Kenneth Richard Luck.)

was just general talk, and there was no system, you know. It was just a group of fellows getting together.

Q. Now, do you recall the election being held in the warehouse? [412]

A. There have been several elections held there. That is, at least——

Q. Mr. Luck, I show you Board's Exhibit 8.

(Handing document to witness.)

A. Oh, yes.

Q. Do you remember such a ballot being used in an election at the warehouse? A. Yes.

Q. Do you know how that election was arranged?

A. I don't just know what you mean, how it was arranged.

Q. In other words, how were you informed that an election was going to be held?

A. Well, there was constant talk all through the organization about this, and some of the fellows wanted to join the C. I. O., and some wanted to join the A. F. of L., some of them were in favor of the independent union, and some of them didn't just exactly know the circumstances or conditions of any of them, and thought they ought to have a little more knowledge of the thing and maybe Mr. Meyberg could explain it, tell what it was all about.

Q. Do you happen to know whether or not the C. I. O. had done any organizing at that time?

A. I don't know whether any of them had done any organizing or not.

(Testimony of Kenneth Richard Luck.)

Q. You were not familiar with any of the organizational [413] activities at all?

A. No. There was talk of all of them.

Q. Did you vote in that election?

A. I believe so.

Q. Do you remember when and where you voted?

A. I imagine I voted on the third floor on whatever day it was held.

Q. It was during working hours, was it not?

A. Probably; probably. [414]

BOARD EXHIBIT 28-A

Copied from the minute book of Consolidated Seedsmen's Union on April 16, 1941, by Gladys Van Sickle.

Excerpt from

GERENAL MEETING OF THE MEMBERS
OF CONSOLIDATED SEEDSMEN'S UNION, INC.

(Meeting of April 18, 1938)

Page 1

Line 19-23

The matter of vacations with pay was discussed, and the Board of Directors are to approach the firm at an early date in regard to securing one week vacation with pay for employees who have been with the firm up to five years and over one year; and two

(Testimony of Kenneth Richard Luck.)

weeks vacation with pay for employees who have been with the firm five years and over.

It was decided that every thing should be put to a vote so that all would know how the discussion of a subject resulted.

BOARD EXHIBIT 28-C

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING OF BOARD OF DIRECTORS (Meeting of May 3, 1938)

Page 2

Line 2-16

It was moved by Harold Frauenberger and seconded by Fern Wingrove that the Board of Directors meet with Mr. Meyberg at the earliest possible date to talk over the matter of two week's vacation with pay to members who have been with the firm five years or more, continuously; and one week's vacation with pay to members who have been with the firm over one year, continuously, also any other matters that should be discussed at that time. Motion carried. The Secretary was instructed to make an appointment with Mr. Meyberg for this meeting.

(Testimony of Kenneth Richard Luck.)

The following topics were decided upon to be presented to the firm:

Vacations—1 week with pay to those over 1 yr, continuously. 2 weeks with pay to those 5 yrs. or over, continuously.

Time-and-a-half for overtime for the Drivers. (So far they are only getting straight time—L. Marquez & Stanley Watson.)

3rd Floor Girls—Regular employees should receive more than the extra temporary girls being hired at the present time.

Main St. Store—What are the store hours for waiting on customers?

BOARD EXHIBIT 28-D

Copied from minute book of Consolidated Seedsman's Union. Proofread by Gladys Van Sickle, April 17, 1941.

HIGHLIGHTS OF MEETING OF BOARD OF DIRECTORS WITH MR. MEYBERG AND MR. SCHOENFELD, HELD AT THE HILL ST. STORE ON THE EVENING OF MAY 12, 1938.

Vacations: Mr. Meyberg stated the future did not look too bright, and therefore felt they should keep expenses down. However, it was shown by departments that very few would be entitled to two weeks

(Testimony of Kenneth Richard Luck.)

with pay. Mr. Meyberg said that at the present time the retail stores are only breaking even, the consignment department always runs in the red, the ranches are okay, also northern branches. However, he would leave it to the Board of Directors to decide as to whether the requested schedule on vacations be put through. However, then he would feel he was overmanned and would have to cut down on the number of employees.

Mr. Luck reported everyone didn't know whether they were to have one week's vacation with pay or not. Mr. Meyberg stated a bulletin would be posted at once in this regard, and that vacations are to be arranged with the department heads so as not to disorganize the department.

In regard to James Neal being laid off on 5th floor and not rehired on 3rd floor, Mr. Meyberg said he would see that those who have been with the firm, when laid off, are to be the first ones called back.

Mr. Meyberg said he would check into and straighten out the matter of the drivers getting time-and-a-half for overtime, as agreed to last fall.

On the 3rd floor, girls hired who have not worked in that department before, will be hired as apprentices and paid accordingly. Also, any overtime on the third floor will be evenly distributed between all those girls desiring to work the extra time.

(Testimony of Kenneth Richard Luck.)

Main St. doors should open at 9 o'clock. However, if an insistant customer demands admission, courtesy rules.

If retail store members wish time off, ask for it and it will be arranged.

BOARD EXHIBIT 28-E

Copied from the minute book of Consolidated Seedsmen's Union on April 16, 1941, by Gladys Van Sickle.

GENERAL MEETING OF THE MEMBERS OF CONSOLIDATED SEEDSMEN'S UNION, INC.

The general meeting of the Members of the Consolidated Seedsmen's Union was called to order by President R. Luck, at 8:05 P. M. on May 16, 1938, at the Sons of Herman Hall, 25th and Main Streets, Los Angeles, California.

The minutes of the last regular General Meeting held April 18th were read by the Secretary, and were approved as read.

President Luck, with the assistance of the Directors present and the Secretary, reported about the meeting of the Board of Directors with Mr. Meyberg and Mr. Schoenfeld on May 12th, which was as follows:

(Testimony of Kenneth Richard Luck.)

Those employees who have been with the firm over one year will receive one week's vacation with pay, said vacation to be arranged with the Department Head. When employees are laid off due to slack season, they are to be the first ones called back, whether in the same department or some other department, providing they can do the work. The matter of overtime for the drivers will be adjusted. New girls hired on the 3rd floor, who have not worked in that department before, will be put on as apprentices and paid as such. Overtime on the third floor will be evenly distributed between those desiring the extra work. Retail stores regularly open at 9 o'clock A. M., except in special cases when customers demand admission. Employees at the retail stores may have time off if they will ask for it and arrange for it.

The balance of the meeting was given over to discussion of the picnic to be held May 22nd. Many parks were suggested, and it was moved by Allan Hook, seconded by Mr. Wall, and carried, that the picnic be held at a public park.

It was moved by Dorathy Davis, seconded by Tom Farley, and carried that the picnic be held at Orange County Park.

Louis Marquez said he would drive the truck and take those who do not have transportation.

It was moved by Tom Farley, seconded by Morris Stearn, and seconded, that everyone meet at the

(Testimony of Kenneth Richard Luck.)

Warehouse, 747 Terminal St., on May 22nd at 9:30 in the morning, and the truck to leave there not later than 10:00 A. M.

Stanley Watson, Viola Gates, and Louis Marquez were appointed to get the Beer, Soft Drinks, Ice and Wood; Dorothy Turton to get the Coffee, Ice Cream, etc.

It was moved by Mr. Wall, seconded by Louis Marquez, and carried, that refreshments be served at every General Meeting.

The Treasurer make the following report:

Cash on hand Feb. 1, 1938.....	\$94.04
Initiation and Dues.....	44.50
	<hr/>
	138.54
Expenses	25.02
	<hr/>
Cash on hand March 1, 1938.....	113.52
Dues	41.00
	<hr/>
	154.52
Expenses	23.31
	<hr/>
Cash on hand April 1, 1938.....	127.21
Initiation and Dues.....	38.00
	<hr/>
	166.21
Expenses	18.31
	<hr/>
Cash on hand May 1, 1938.....	\$147.90

(Testimony of Kenneth Richard Luck.)

As there was no further business, it was moved by Tom Farley, seconded by Morris Stearn, and carried, that the meeting adjourn.

/s/ DOROTHY TURTON

Secretary

/s/ K. R. LUCK

President

Q. Now, I call your attention to the fact that on Board Exhibit 29-E, for identification, at the bottom of that exhibit, which is one page, there is a list of three items which Mr. Meyberg wants. Can you state whether or not those items were subsequently furnished to him?

A. In our effort to gain strength in our union, we asked Mr. [423] Meyberg for various concessions, and, apparently, to give us some proper answer or response to these demands that we were making, he said he would have to have these reports, and as far as I know, he got them all.

Q. To your knowledge, they were subsequently given to him, that is, the three items requested?

A. Yes, they should have been.

Q. (Continuing)—on Board's Exhibit 29-E, for identification?

A. Yes, by the secretary of the union at the time. I don't know—was that meeting on—

(Testimony of Kenneth Richard Luck.)

Q. On September 9, 1938.

A. I couldn't say, of course, whether he actually got the lists or not, but he was supposed to have received them from the secretary of the union.

Q. Who was Violet Ashley at that time, was it not?

A. It probably was. She was secretary at one time.

Q. Now, Mr. Luck, I call your attention to Board's Exhibit 29-F, for identification, and I ask you whether or not the original of Board's Exhibit 29-F, for identification, was sent to Mr. Meyberg?

A. That would be the assumption, yes. It was written to him. It surely was.

Q. Do you know whether or not such a letter as Board's Exhibit 29-F, for identification, was prepared each month and [424] sent to Mr. Meyberg?

A. I know it was supposed to have been, but I think at various intervals during the year there was no union member in good standing who was not employed, or something of that nature, which made it of no point to submit a blank, apparently, and then possibly for the next month it might have been overlooked. I can't say that those lists were at all regular in coming. In fact, when I was secretary, I know they weren't because the secretary was to make that list up from names given the secretary by the directors of the various departments, and when I was secretary and didn't get a list, I assumed it was all right and I didn't write one.

(Testimony of Kenneth Richard Luck.)

Q. You didn't write one. Do you know whether or not such a list as to which you have been testifying ever included, in addition to a list of unemployed union members or a list of non-members that were employed, also a list of the union members employed who were delinquent in their dues?

A. It probably did, because we were trying to get a closed shop, and as I say, trying to get strength, and we wanted to eliminate members in bad standing, apparently, or people who wouldn't join, and we tried to bring pressure upon them to join. [425]

BOARD EXHIBIT 29-A

Copied from minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING OF
BOARD OF DIRECTORS
(Meeting of May 3, 1938)

Page 1

line 14-19

The Secretary reported that she had called Mr. Voorhees, and he said he would meet with the Board of Directors and Mr. Meyberg to discuss the matter of supplying the firm with a lay-off list of members

(Testimony of Kenneth Richard Luck.)
delinquent in dues or detrimental to the firm or the Union and suggested for lay-off. It was decided that at the present time there was no need for such a list and therefore the matter will not be followed up for the present.

BOARD EXHIBIT 29-C

Copied from the minute book of Consolidated Seedsmen's Union on April 15, 1941, By Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING OF
BOARD OF DIRECTORS

(Meeting of September 6, 1938)

Page 1

Line 11-16

There was a discussion on members and non-members in the company, the hiring of non-members before members who are unemployed, with special reference to Hazel Brown and Marion Linn. President Luck suggested that the Directors have a meeting with Mr. Meyberg, Friday morning, September 9th, if it could be arranged.

(Testimony of Kenneth Richard Luck.)

BOARD EXHIBIT 29-D

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941 by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING OF
BOARD OF DIRECTORS

(Meeting of September 6, 1938)

Page 2, Line 25-32, and Page 3, Line 1-11

In the meeting with Mr. Meyberg on Friday the following matters were taken up:

- (1) eight hours at the ranch with the same pay instead of nine hours
- (2) employing non-union members before members

Non-Union members employed at Germain's:

Traffic Dept.—None

Office—Sarah Blomgren, Georgia South, Clara Seastedt, Charlotte Miller, Audrey Seaman, Marguerite Hanna, Charles Wilson

3rd Floor—Nyda Crayton

4, 5 & 6 Floors—None

Hill St.—None

Main St.—None

Ranch 26—None

(Testimony of Kenneth Richard Luck.)

Union Members not employed:

Hazel Brown
Marion Linn
Ruth Grey
Virginia Bland
Theodore Follingstad

BOARD EXHIBIT 29-E

Copied from minute book of Consolidated Seedsman's Union. Proofread by Gladys Van Sickle, April 17, 1941.

MEETING WITH MR. MEYBERG

September 9, 1938

Mr. Luck was spokesman for the Directors. First he brought up the matter of people being hired who are not Union members. Mr. Meyberg asked that he be given a monthly list of the unemployed members of the Union, and said he would see that they were shown preference over outsiders, particularly on the radio work just coming up.

Mr. Luck mentioned members of the office who will not join the Union. Mr. Meyberg said it was their privilege to join or not as they like, and said he absolutely did not believe in having a closed shop.

Amos Kays and Erich Regan discussed the Ranch problem of eight hours a day, instead of nine with

(Testimony of Kenneth Richard Luck.)

the same pay. Mr. Meyberg said he would talk with Mr. Marks about it and they would work out something satisfactory. He promised to go out to the ranch the next week to meet with the members of the Ranch and get some action upon the matter.

Erich Regan suggested that Mr. Follingstad be brought down to the Wholesale. Mr. Meyberg objected to having members transferred from one division to another, but promised to work out something.

In regard to the dance discussed at the last Director's meeting, Mr. Meyberg said any Saturday night in October would be agreeable with him. We have his permission to begin fixing the Shipping Floor on the morning of that Saturday.

Mr. Meyberg wants:

1—a complete list of all members of the Union according to departments.

2—a monthly report of unemployed members, mentioning the departments in which they are suited.

3—a monthly report of members not in good standing.

BOARD'S EXHIBIT 29-F

Mr. M. Meyberg.

Following is a list of the unemployed Union members as reported to me at the Directors meeting of February 7th, 1939:

(Testimony of Kenneth Richard Luck.)

Third Floor:

Iris Slafter

Virginia Bland

Irene Wallace

Irma Wright

Ruth Gray

Members in all other departments are working at the present time.

Respectfully,

CONSOLIDATED SEEDSMEN'S
UNION, INC.,
B. EATON,
Secy.

Reported—2/10—See notes.

Q. Now, with respect to Board's Exhibit 30-A, for identifica- [429] tion, you will note that it states:

“It was decided to leave the matter up to Mr. Luck, to ascertain whether the picketing is for betterment of employees' conditions at Taylor Milling, or whether it is purely a union disagreement, and whether our drivers go through the line or not.”

Can you tell me what investigation you made and what action you took?

(Testimony of Kenneth Richard Luck.)

A. My information on this came from the truck drivers themselves, and at the time this was presented all the information we had was that there was a picket line there, and the truck drivers were going to find out about it. We wanted to cooperate with the union, whatever union it was that

(Testimony of Kenneth Richard Luck.)

was picketing, providing their idea was for the betterment of the employees of this Taylor Milling Company, but we felt if it was purely a jurisdictional dispute between the C. I. O. and the A.F. of L., or any other two organizations, there would be no justification of why Germain's business or any firm's that our union was dealing with, why it should not be carried on.

Q. I see. I call your attention to Board's Exhibit 30-B, for identification. It states: "Mr. Harrison suggested that if the persons already members did not pay up their back dues and become a member in good standing, that they be dropped definitely." [430]

Can you tell me whether or not any such action was taken?

The Witness: I believe not. The board of directors didn't think that was a good policy. They were still carried as members, but not in good standing. [431]

(Testimony of Kenneth Richard Luck.)

BOARD EXHIBIT 30-A

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from
MINUTES OF MEETING
OF
BOARD OF DIRECTORS
(Meeting of August 9, 1938)

Page 3

Line 26-32

President Luck reported that at the present time there is picketing at the Taylor Milling Company, and asked whether our drivers should acknowledge the picket line, or go through it. It was decided to leave the matter up to Mr. Luck, to ascertain whether the picketing is for betterment of employees' conditions at Taylor Milling, or whether it is purely a union disagreement, and whether our drivers go through the line or not.

(Testimony of Kenneth Richard Luck.)

BOARD EXHIBIT 30-B

Copied from the minute book of Consolidated Seedsmen's Union on April 16, 1941, by Gladys Van Sickle.

Excerpt from

GENERAL MEETING OF THE MEMBERS
OF THE CONSOLIDATED SEEDSMEN'S
UNION, INC.

(Meeting of January 16, 1939)

Page 1

Lines 17-27

Mr. Porter of the Hill Street Store discussed the subject of why the members at Hill Street did not keep up their dues. They did not think that they were taken care of as well as some of the other departments, and that they were all members and that it was not fair, as in some of the other divisions they were not 100% members. Mr. Luck explained that Mr. Meyberg did not believe in a closed shop—and that he would not force a person to join the union if he did not want to. Mr. Harrison suggested that if the persons already members did not pay up their back dues and become a member in good standing, that they be dropped definitely.

Q. Now, in connection with Board's Exhibit 31-A, for identification, I call your attention to the

(Testimony of Kenneth Richard Luck.)

fact that it is headed, "Suggestions," and the first suggestion is, "Write letter of appreciation to firm for \$10 and paying fine."

Do you know as to what that suggestion refers?

A. It apparently refers to a picnic that the union gave, invited the firm members and, as I recall, all employees of the firm, with the idea of creating a better understanding between the members and the non-members; and also the union, that is, the members and the people who weren't members and the firm, and in reciprocation, apparently, for the invitation, various games and activities at the picnic, the firm donated a \$10 prize to some team, or some such thing. And the paying of the fine, as I recall it, was that one of the members of the union was arrested for speeding on the way back after the picnic. I don't know who wrote it though.

Q. I call attention to Board's Exhibit 31-B, for identification. That letter was sent, was it not?

A. Yes. [434]

BOARD EXHIBIT 31-A

SUGGESTIONS

Write letter of appreciation to firm for \$10.00 and paying fine.

Notify everyone that the button they are getting this month is to be kept.

See about getting receipt books or something to

(Testimony of Kenneth Richard Luck.)

give receipt on payment of dues, now that there won't be a button to give out each time.

Sons of Herman Hall is reserved for the next General Meeting, June 20th. It has to be spoken for each meeting. I ask for it each meeting nite for the next time.

BOARD EXHIBIT 31-B

CONSOLIDATED SEEDSMEN'S UNION, INC.
2415 12th Avenue
Los Angeles, Calif.

May 19, 1938

Germain Seed & Plant Company
747 Terminal Street
Los Angeles, California
Attention: Mr. Manfred Meyberg
Gentlemen:

The Consolidated Seedsmen's Union are planning an entertainment in the form of a picnic for our members, their families and friends, to be held on Sunday, May 22nd, at Orange County Park.

We would appreciate the presence of the Officers of the firm as our guests, and hope that all may come.

In the way of cooperation, we would appreciate the use of a truck for the day, which Louis Mar-

(Testimony of Kenneth Richard Luck.)

quez has offered to drive, also some sacks etc. to be used for entertainment; and any financial consideration that the firm would deem *feasible* for for the event will be greatly appreciated.

Hoping to see everyone at our picnic, and with kindest regards, we remain

Yours very truly,

CONSOLIDATED SEEDSMEN'S
UNION, INC.

RL:DT

BOARD EXHIBIT 31-C

CONSOLIDATED SEEDSMEN'S UNION, INC.

Los Angeles, Calif.

June 18, 1938

Germain Seed & Plant Company

747 Terminal Street

Los Angeles, California

Attention: Mr. Manfred Meyberg

Gentlemen:

On May 22nd, 1938, we, the members of the Consolidated Seedsmen's Union, held a picnic at Orange County Park for the families and friends of the Union members.

We wish to express our thanks to you for the very generous financial aid and support which you contributed to its success. We appreciate this help

(Testimony of Kenneth Richard Luck.)

and feel that it has caused a definite improvement in the spirit and good-fellowship among the employees of the Germain Seed & Plant Company.

Sincerely,

CONSOLIDATED SEEDSMEN'S
UNION, INC.

K. R. LUCK, Pres.

BOARD EXHIBIT 31-D

CONSOLIDATED SEEDSMEN'S UNION, INC.

Los Angeles, Calif.

September 7, 1938

Mr. Manfred Meyberg
Germain Seed & Plant Company
747 Terminal Street
Los Angeles, California

Dear Mr. Meyberg:

The Consolidated Seedsmen's Union's Board of Directors wish me to express to you their thanks and appreciation for the help and cooperation you and the Germain Seed & Plant Company extended to the Union in connection with the Weenie Roast held last July 30th.

With your help, the Weenie Roast was a huge success. Thanks a lot.

Sincerely

Secretary Pro Tem

Consolidated Seedsmen's Union

(Testimony of Kenneth Richard Luck.)

BOARD EXHIBIT 31-E

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING
OF
BOARD OF DIRECTORS

(Meeting of June 7, 1938)

Page 2

Line 8-11

It was moved by A. Hook, seconded by Tom Farley, and carried, that a letter be sent to the firm expressing our thanks and appreciation of the support given us at our Picnic held May 22nd.

BOARD EXHIBIT 31-F

Copied from the minute book of Consolidated Seedsman's Union on April 15, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING
OF
BOARD OF DIRECTORS

(Meeting of August 9, 1938)

Page 3

Line 8-10

The Secretary was instructed to write the firm a

(Testimony of Kenneth Richard Luck.)

letter of thanks and appreciation for the use of the truck for the weenie roast.

BOARD EXHIBIT 32-A
CONSOLIDATED SEEDSMEN UNION
Los Angeles, Calif.

Germain Seed & Plant Co. April 11, 1939
747 Terminal St.
Los Angeles, Calif.

Att. Mr. Meyberg

At the last regular meeting of the Board of Directors of the Consolidated Seedsmen Union the annual election of Officers of the Union was held. The Board deemed it advisable to inform you of the results, hoping you will note the changes so as to aid you in any pending communications or negotiations.

Pres.—Mr. Richard Kadous
Vice Pres.—Mr. Eric Regan
Tres.—Miss Viola Gates
Sec.—Mr. K. R. Luck

The regular monthly meeting of the Board of Directors is the first Tuesday of the month making the next one fall on the 2nd of May. The Board feels that a little closer relationship between the Union and the Germain Seed & Plant Co. would be in order. In order to achieve this the Board is inviting you to attend the next meeting; this invita-

(Testimony of Kenneth Richard Luck.)

tion is extended to the following: Mr. Meyberg, Mr. Schoenfeld, Mr. Marks, Mr. Clark, Mr. Hill, Mr. Gates, Mr. Pieters, Mrs. Chorán, Miss Wilson, Miss Jeanne Court, and Mr. Sidebottom.

This meeting will be at 7:00 P.M. at Diana's Cafe at 4109 W. Pico Blvd. L. A. We will appreciate your cooperation in this matter by letting us know as soon as is convenient, the approximate number who can attend, so proper arrangements can be made for the meals.

Very truly yours,

CONSOLIDATED SEEDSMEN
UNION
PRES. RICHARD KADOUS

Sec.—K.R.L.

BOARD EXHIBIT 32-B

Copied from the minute book of Consolidated Seedsman's Union on April 14, 1941, by Gladys Van Sickle.

Excerpt from
MINUTES OF MEETING
OF
BOARD OF DIRECTORS
(Meeting of April 4, 1939)

Page 1

Line 24-27

It was suggested that the Representatives of the Union be invited to the next Directors Meeting in

(Testimony of Kenneth Richard Luck.)

ordre to secure more widespread cooperation and interest. It was also thought advisable to invite the following members of Germain's: Mr. Meyberg, Mr. Schoenfeld, Mr. Pieters, Mr. Marks, Mr. Clark, Mr. Hill, Mr. Gates, Mrs. Coahran, Miss Jeanne Court, Miss Wilson, and Mr. Sidebottom or a suitable substitute from each department.

BOARD EXHIBIT 33-A

Copied from the minute book of Consolidated Seedsman's Union on April 14, 1941, by Gladys Van Sickle.

Excerpt from
MINUTES OF MEETING
OF
BOARD OF DIRECTORS
(Meeting of Sept. 5, 1939)

Page 1

Line 12-15

There was some discussion about salaries and the Director from Division #3 introduced a Petition signed by members of the Division requesting that the Union approach Mr. Meyberg to secure a raise in pay. The Petition was quite general and made no definite requests so Mr. Epperson moved to delay action on it until after the next general meeting

(Testimony of Kenneth Richard Luck.)

so some of the signers could express their viewpoints. This was seconded by Mr. Farley and carried.

BOARD EXHIBIT 33-B

Copied from the minute book of Consolidated Seedsman's Union on April 14, 1941, by Gladys Van Sickle.

Excerpt from
MINUTES OF MEETING
OF
BOARD OF DIRECTORS
(Meeting of October 3, 1939)

Page 1

Line 6-7

The President mentioned the Petition which was signed by the members of one division and said that practically all of the people who were entitled to a raise had received it.

(Testimony of Kenneth Richard Luck.)

BOARD EXHIBIT 33-D

Copied from the minute book of Consolidated Seedsman's Union on April 14, 1941, by Gladys Van Sickle.

Excerpt from

MINUTES OF MEETING

OF

BOARD OF DIRECTORS

(Meeting of December 5, 1939)

Page 1

Line 24-29

Miss Wingrove made a motion that a letter be sent to Mr. Meyberg requesting that the employees at the wholesale have an additional half day off before Christmas or New Years and that the employees of the retail stores have a corresponding half day off as soon as possible and convenient. This motion was seconded by Mr. Epperson and carried.

Q. (By Mr. Cobey) Now, Mr. Luck, I call your attention to Board's Exhibit 33-D, in which reference is made to a letter to [437] be sent to Mr. Meyberg, requesting that the employees in the wholesale be given an additional half day off before Christmas and New Years, and so forth. Do you know whether that letter was sent?

(Testimony of Kenneth Richard Luck.)

A. It probably was. As I recall, it was granted, yes.

Trial Examiner Paradise: Now, I didn't know whether there was going to be anything further on Board's Exhibits 32-A to C, which deal with the invitation extended to the various representatives of the company to attend a meeting of the board of directors of the union on May 2nd. The minutes do not show what the outcome of the invitation was, or whether, in fact, the company representatives attended the meeting.

Do you know anything about that, Mr. Witness?

The Witness: Yes. They attended the meeting.

Trial Examiner Paradise: Were you there, by the way?

The Witness: Yes.

Trial Examiner Paradise: All right, go ahead, counsel.

Mr. Cobey: I just wanted to state, Mr. Examiner, that I think in Board's Exhibit 32-C there is a reference to the fact that such a meeting did take place.

Q. (By Mr. Cobey) As I understand it, referring again to Board's Exhibit 32, that was a social meeting to acquaint the management with the new officers of the union? Is that correct? [438]

A. Yes, that's the idea.

Q. There were no negotiations at that meeting, were there?

(Testimony of Kenneth Richard Luck.)

A. No. We really—as I recall it, we really didn't carry on any fundamental business of the union at that time. Of course, there may have been an ulterior motive in the minds of the board of directors in having it there. I mean, it wasn't there just for nothing. We expected to derive some benefit from it.

Q. Now, when you were secretary, it was your function to notify the board of directors of the meetings for the board of directors?

A. That's right.

Q. How was that notification made? [439]

Mr. Watkins: We will stipulate that he will testify it was done similarly to the way the others testified.

The Witness: Generally, we just gave notices written to the individual board members.

Q. (By Mr. Cobey) You took them around and distributed them personally?

A. That's right.

Q. On the job?

A. Yes. You see, we are not confined—at least, I wasn't confined to any particular spot. It is not a machine operating proposition, and possibly that is why various people who were officers were given the office, in that they had considerable mobility. I mean, there was nothing against me going from one floor to another, if business required that.

Q. And while you were on that job, you did give these notices? A. Why, surely.

(Testimony of **Kenneth Richard Luck**.)

Q. Now, during the time when you were president and during the time when you were secretary, do you recall any request being made for a written contract? A. By whom?

Q. By the Consolidated Seedsmen's Union of the Germain Seed and Plant Company.

A. Yes. We were always striving to achieve more, and what we did achieve, we wanted it in writing, if we could get it.

Q. Did you ever request it? [440]

A. I believe so.

Q. Did you ever draw up a proposed contract and present it to the management?

A. I couldn't say for sure whether it was when I was president or not, but it seemed like we had several agreements written. I wrote one or two myself to be signed, yes.

Q. Do you know what happened to those agreements that you wrote?

A. I believe pretty nearly without exception they were turned back and were not signed, with the understanding that there was no necessity of having them signed, that the agreement was an understanding and would be followed through as readily—the verbal understanding as well as a written one.

Q. What was the subject matter of those agreements?

A. Offhand, I couldn't say specifically, but, apparently, were the problems we were constantly working on in our conferences with the firm.

(Testimony of Kenneth Richard Luck.)

Q. Now, do you know what happened to those agreements after they were turned back to you?

A. No. It seems as though when I was secretary I had quite a sheaf of things like that, and the ones that were turned back when I was secretary, I think I just stuck them back in the file, and I imagine that is what the previous secretary did. However, they may have just been thrown away as useless, as long as we were left with the agreement in a verbal understand- [441] ing, and the writing was something—at least, we didn't succeed in achieving a written agreement at that time. They might have been just destroyed or thrown out, and probably were.

Q. Now, Mr. Luck, the files are here under subpoena, so I would like to request you, after you get off the stand, would you mind looking through those files and seeing if you could find any such agreements? A. All right.

Mr. Watkins: You mean the files that are up here with the Board?

Mr. Cobey: Yes.

Trial Examiner Paradise: You mean agreements which the union requested and were not granted?

Mr. Cobey: Yes. The ones to which Mr. Luck referred.

The Witness: I wouldn't say the agreements weren't granted. They weren't granted in writing.

Mr. Cobey: Yes, that is correct.

(Testimony of Kenneth Richard Luck.)

Q. (By Mr. Cobey) Do you know whether or not the Consolidated Seedsmen's Union made any threat to the company during the time while you were president or secretary, that it would take economic action if its demands were not granted?

Mr. Watkins: Is that the prerequisite to a good union? Is that the purpose of the question?

The Witness: What do you mean "economic action"? [442]

Q. (By Mr. Cobey) In other words, the German Seed and Plant Company did not grant to you all that you asked, did it? A. No.

Q. Now, when certain demands were refused, did you ever threaten to resort to a strike or boycott in the event those demands were not granted?

A. Not to my knowledge.

Q. You understand that I mean the board of directors of the Consolidated Seedsmen's Union?

A. I don't believe that we made any particular threats, no.

Q. Did you make any statements to that effect?

A. No.

Mr. Cobey: That is all.

Cross Examination

Q. (By Mr. Watkins) Mr. Luck, did you ever get permission from the management to contact other employees about union meetings and things of that kind at the plant, or did you just do it on your own?

(Testimony of Kenneth Richard Luck.)

A. I don't remember asking permission to do it.

Q. As far as your work is concerned, I believe you said you were in charge of the bulb department. Are there times when you are the only one in the bulb department, or were there times?

A. Yes, there were.

Q. What is the largest number that you have ever had up there, [443] while you were in the bulb department?

A. I believe three, possibly four other people.

Q. Did you have any power, while you were there, to hire or fire employees? A. No.

Q. Or to recommend hiring or firing employees?

A. Well, I could certainly recommend it, whether I was in any position or not. I mean, as to having the ability to, why, in my department at times it was very busy and we did have more people, and when some of them possibly weren't getting the job done, I would go to Mr. Pieters, who was in charge of that department as to hiring and firing, and tell him I would like to have somebody either replaced or put on some other job. It wasn't firing, as they were doing work for me temporarily. I would possibly like recommend.

Q. He would take care of that then, is that right?

A. That is right.

Q. When you came to the Germain Seed and Plant Company to work, I believe you said you started at the rate of \$80 per month?

(Testimony of Kenneth Richard Luck.)

A. Yes.

Q. Did you have any understanding as to increases at the time you came to the Germain Seed Company?

A. Well, I came out here from the middle west where I had been in the seed business for several years, and I had had a [444] considerable knowledge in the business and had done business with some of the firms here. But I didn't know Mr. Meyberg, and when I approached him about a job, he said, naturally, he didn't know me and that what I was telling was probably right. He asked me what I had worked for before, and I told him, but he thought it was more than he could risk at the time and asked me if I could start at \$80.

I said, "Well, I came out to Southern California to work and live, and I will start at eighty, provided I don't stay there. I will have to have more right along." I had been making more. I was in business for myself, as I said, and I had a considerable knowledge of it; I imagine more than nine out of ten employees.

Q. At Germain's?

A. Yes, at Germain's in the seed business, and I knew that I would be worth considerably more than that to the firm.

Q. You had a college education, didn't you?

A. Yes. I graduated from Missouri University, and I also took some horticultural or floricultural

(Testimony of Kenneth Richard Luck.)

work at the University of Southern California, and I told him I thought I was worth considerably more than that, and he said if that was the case, O.K.

Q. Now, going to the question of the preference for Consolidated Union members over non-union members, isn't it a fact that that was one of the problems that was up for dis- [445] cussion at a great many of the union meetings? That is, the question of the company hiring non-union members while there were still Consolidated Seedsmen's Union members unemployed?

A. Yes, that came up right along.

Q. In other words, the company had in a number of instances hired non-union employees when Consolidated Seedsmen's Union members were out of work? Is that correct?

A. Yes, it did.

Q. That happened at the Ranch, and also at the other stores, didn't it? A. That is right.

Q. (By Mr. Watkins) With respect to members of the Consolidated Seedsmen's Union, there were no members of that union except people who were then or had previously been employed at Germain's; is that correct?

A. That is just about true. I think there were one or two people members of the union who were not in the employ at the time, but had been.

Q. Had been previously? [446]

A. The idea of the union was to incorporate under the State of California, which we did, and

(Testimony of Kenneth Richard Luck.)

we negotiated with several other firms—the employees of several other firms about coming into our membership, but they seemed to think that probably they would be just as well off to organize in their own firm. I think a specific example of that was one firm in Phoenix, or I am not positive just there, some place in Arizona, and two others, one firm here in Los Angeles and one in Ontario, I believe.

Q. In any event, when you sought preferential hiring for members of your union, you were seeking preferential hiring for people who had at one time been employees of the Germain Seed and Plant Company? Correct? A. That's right.

Q. All right. Now, Mr. Luck, will you go back to the time in August, I believe, of 1937. I believe you testified that you attended a meeting that Mr. Sage held at the plant on or about that time. Do you recall the meeting that I refer to? A. Yes.

Q. Where Mr. Sage was present and some other employees? A. That's right, yes.

Q. Were you present at the meeting?

A. Yes.

Q. Now, this was prior to the time that Mr. Voorhees came to the plant? [447] A. Yes.

Q. Do you remember how many were present at that meeting?

A. Oh, there was a group, I would say, of about twenty. I guess somewhere around there.

Q. How long did the meeting last, if you can recall?

(Testimony of Kenneth Richard Luck.)

A. Oh, half an hour, forty-five minutes.

Q. Was it a meeting in which somebody made a speech, or was it a general discussion meeting?

A. Well, it seemed to culminate from general discussion, and most all of the fellows from the upper floors were down there. It was just—there didn't seem to be any arrangement or any system to it. There were several of the men, Hatfield and Sage and Nesbit, the three I remember; I am not positive whether Mr. Hill was there or not, but he might have been. It was just a general bunch of us sitting around. I think it was after work, either on Saturday afternoon—right after noon. It seemed like it was right after work.

Q. Were there questions asked by different ones present?

A. Yes, we were all asking and answering questions.

Q. In other words, it was more or less of a discussion—

A. That's the idea.

Q. —than a speech-making event?

A. Yes.

Q. Mr. Luck, someone here has testified that at that meeting Mr. Sage made a statement to the effect that Mr. Schoenfeld and [448] Mr. Meyberg had enough money so that they could just close up the plant, if they wanted to. Do you remember Mr. Sage making any such statement?

A. No, I don't remember any specific statement.

(Testimony of Kenneth Richard Luck.)

Redirect Examination

Q. (By Mr. Cobey) Mr. Luck, how were you informed of this meeting as to which you have just been testifying?

A. I think just by word of mouth, just general talking amongst the fellows.

Q. I think you just testified it was more or less a general discussion. Is that correct?

A. That's the idea.

Q. Didn't Mr. Sage make a little speech there? Didn't somebody take the lead?

A. Sage did, yes. He apparently—you see, I had only been with the firm a year possibly, and I didn't know many of [449] the men intimately. I knew who they all were, and Mr. Sage at that time said that he, of course, had been with the firm quite a long while and, apparently, he had held a job—the job that Mr. Hill holds now—and that he had been given a different job, and he said he knew something about the unions, and said that he didn't want to join any. But as far as any notification was concerned, it was just all talk about that, that is all. And they said, "Are you going to be there? We are going to have a bunch of fellows downstairs after work."

And I said, "Sure, I will be there."

Q. But Mr. Sage took the lead at the meeting, didn't he?

A. Yes, I believe so. He apparently had been

(Testimony of Kenneth Richard Luck.)

there as long, if not longer, than most of the other people, and others, I think Mr. Hatfield had quite a little to say. Not a lot. There wasn't a lot said. And Nesbit—there were three or four men who apparently were the leaders, you know, had been there a long time.

Q. (By Trial Examiner Paradise) Just one or two questions, Mr. Luck, about your work in the bulb department. Exactly, what did you do there?

A. Well, you might say everything. In the slack season it was everything from sweeping the floor to keeping the stock [450] and filling the orders, and buying the merchandise that we had to have for re-sale, and everything in general. And then, of course, in the busy time, why, I just took care of the invoices and the buying, and you might say supervision of the two or three other people.

Q. What was the extent of your supervision of the work of these two or three other people?

A. Well, of course, you all realize in any reasonable occupation like the seed industry, it has great periods of fluctuation, and it is hard—I know from having been an owner, in business myself—it is hard to keep employees that know anything and pay them a proper amount of salary and pay to do that, keep them over an entire year. So when you can't do that, for short periods of the time you have a lot of green help in there that don't know one thing from another, don't know anything about

(Testimony of Kenneth Richard Luck.)

it in reality, and you just have to instruct them, "Do this," and "Do that. That is red and blue," and that sort of thing.

Q. Your superior, as I understand it, was Mr. Pieters? Is that right? A. That is right.

Q. What was his position?

A. He was in charge of the whole floor. He was the buyer and general encyclopedia, and, of course, he did all the hiring and firing. I don't know. As I say, I went to Mr. [451] Meyberg when I was personally hired, but I know Mr. Pieters was personally consulted about it, and I imagine all the other employees on that floor were either hired by Mr. Pieters or Mrs. Coahran. It involves a lot of girls that do packet filling, and while he didn't bother with the intimate hiring and firing of those, he did it——

Q. What was done in the bulb department? What did that department consist of?

A. It consists of, you might say,—of course, it can be divisible in various ways. You might say European merchandise, import goods, which consists of hyacinths, crocuses, tulips, quite an amount of varying items, and then locally grown things like dahlias and the various bulbs that we grow at our Ranch. Of course, some are grown in various places; ranunculus, and that sort of things, and other bulbs like gladiolas that we buy out at various places.

Q. I wasn't interested in a description of the

(Testimony of Kenneth Richard Luck.)

various bulbs. When you say the bulb department, it had to do with the purchase——

A. And dispensation.

Q. —sorting, and crating, and packing——

A. That's right.

Q. —and distribution of bulbs of different kinds?

A. That's right.

Q. What was the maximum number of persons who might be employ- [452] ed there during the busy season? A. In the bulb department?

Q. Yes.

A. Well, five, I believe, at the most.

Q. That is four besides yourself?

A. Four others, yes.

Q. During the off-seasons there would be how many? A. No others besides myself.

Q. Just yourself?

A. And I would be looking for something to do.

Q. How long would the busy season last?

A. Well, it depends a lot on the weather, and things like that.

Q. Well, normally.

A. Well, you might say from the 1st of September until just before Christmas, and that would begin again about the middle of January and run until the middle of May, with variations on each side.

Q. Did you have anything to do with the hiring of the help in the bulb department?

(Testimony of **Kenneth Richard Luck.**)

A. No. I didn't have anything to do with the hiring of anyone.

Q. Were you consulted about the hiring of anyone?

A. Not in the actual hiring. I might say in one case I noticed in the minutes there was mention of a Mr. Follingstad, [453] or something like that, who had been employed at the ranch, and in one instance he had been dismissed because of their slack period, and the union brought up the fact that, if possible, he should be hired again, and at that time my department was increasing in its activities, and I was approached, well, couldn't he be used in my department.

I said, sure, he would be as good as anybody else, they generally don't know much anyway.

Q. Aside from that case, was there any case in which you were consulted with reference to the hiring of somebody in your department?

A. No.

Q. How about the question of determining whether additional help should be hired, without reference to any particular person?

A. Well, a particular person—

Q. I say, without reference to any particular person.

A. Well, when business got so that we were working as fast as we could, naturally, and still there was more work accumulating than we could

(Testimony of Kenneth Richard Luck.)

get out, I would always go to Mr. Pieters and say I would have to have help. He would say, "O.K."

Q. What would be the situation with regard to the slackening of work and laying off of help? Did you have anything to do with that?

A. Well, I would have, naturally, but, of course, he knew [454] too when the business was beginning to fall off and when we were caught up, and had things in good shape again, why, I would generally tell him, "Well, we are caught up all right." And if he had some place else he could use anybody in my department at any time, why, O.K.

Q. Did you have anything to do with the determination of which employees were to be laid off first when work slackened? A. No.

Mr. Watkins: Just a moment. I was just wondering if it should not be made clear to the witness: In his capacity, as he said, in the bulb department, or in his capacity as head of the union.

Trial Examiner Paradise: I am not considering your union——

The Witness: Status?

Trial Examiner Paradise: —position or union status at all. Have you understood that?

The Witness: I have thought of both of those sides.

Q. (By Trial Examiner Paradise) In the answers you have given with regard to your work in the department?

(Testimony of Kenneth Richard Luck.)

A. Well, except in this Follingstadt case that came up through the union.

Q. Outside of that, have you answered from the standpoint of your status as the head of the bulb department? A. Yes, that's right. [455]

Q. Is that a correct designation of you, head of the bulb department?

A. That would be all right.

Q. Now, to re-state the previous question: Have you had anything to do with the selection of persons for lay-off when work slackened?

A. No. So far as my department was concerned, it was more or less minor, and I don't know offhand of any instance when my work was caught up that they were actually laid off. It was transferred to another department, and it didn't make any difference to me. I didn't have anything to say about it, no.

Q. Eventually they would all have to go out of your department anyway? A. That's right.

Q. There was no question of building up a permanent staff in the bulb department?

A. Well, of course, we always hoped to do something big in our own little way, but it isn't, because it just—when it quits, it is finished, and there is nothing to do.

Trial Examiner Paradise: Oh, I might add just one further question:

Q. Did you ever have any over time work in the bulb department during the busy season? [456]

(Testimony of Kenneth Richard Luck.)

A. I never did. We had a lot of work to do and we wouldn't necessarily have to go home, but we never did any over time work.

Trial Examiner Paradise: All right.

BOARD EXHIBIT 34-C

Copied from the minute book of Consolidated Seedsman's Union on April 14, 1941, by Gladys Van Sickle.

SPECIAL MEETING OF BOARD OF DIRECTORS

A special meeting of the Directors of the Consolidated Seedsmens Union Inc., with Mr. Meyberg was called at 4:00 P.M. Thursday, October Third 1940. All Directors were present.

Mr. Meyberg explained the budget system upon which his business was being run. Each Director with the exception of the Van Nuys Ranch, and Hill Street Store was handed a set of figures showing the possible salary increases in their divisions.

Mr. Meyberg stated that the Hill Street Store was operating at a loss, but that something in the form of a bonus based on the selling ability was being worked out. The Van Nuys Ranch is another branch entirely different being under the Agriculture labor. Mr. Meyberg will arrange to meet with the Ranch within Tuesday of next week. Mr. Meyberg stated Van Nuys has improvement coming up.

(Testimony of Kenneth Richard Luck.)

Mr. Butterfield asked what was to be done about the approaching lay off of Jack Thrift, a member of the Consolidated Seedsmens Union. Mr. Meyberg stated that he was trying to fill him in at the present time, and would see what could be done about keeping him employed.

It is understood that the Board of Directors Will Meet Again with Mr. Meyberg as soon as can be arranged.

/s/ FERN ANITA WINGROVE,
Acting Secretary.

/s/ JOHN W. BUTTERFIELD,
President.

BOARD EXHIBIT 34-D

GERMAIN'S

Germain Seed and Plant Co.
General Offices and Warehouse
747 Terminal St. - TRinity 2821
Los Angeles, Calif.

3d October 1940

To the Board of Directors, Consolidated Seedsmen's Union.

The management of your company has given serious study to your request that we examine the possibilities of making salary increases for various classes of our employees.

(Testimony of Kenneth Richard Luck.)

We have carefully gone over our situation with the thought in mind of making such increases as we feel can be made without jeopardizing the financial structure of our business. We feel that this matter is of as great importance to each employee as it is to your management because after all the livelihood of all of us is definitely dependent on the ability of your company to operate at a profit. If our ability to operate profitably is impaired you will realize that our ability to give employment will also be seriously impaired.

You have been given figures by the writer showing you that during recent years the amount of profit that your company has been able to make has been quite small. In fact, there would have been no profit had it not been for the fact that outside activities not connected directly with the seed business, in which we have engaged, have helped to make up for our generally unsatisfactory profit condition.

It must be remembered that no business can continue operating without a profit. When profits cease, either expenses must be reduced or operations must be discontinued.

In suggesting the attached schedules of revised salaries we have attempted, so far as possible, to be consistent in classifying different classes of work in our organization so that generally employees performing the same class of work, or work of equal

(Testimony of Kenneth Richard Luck.)

importance and responsibility will receive the same compensation.

We have estimated that the increases in compensation represented by the attached lists, represent a total increase of approximately \$6500.00 per year. In addition we are now about to operate on a 40 hour week which will also result in an increase in our expense. We are hopeful that we can overcome these additional costs, and are counting to no little extent on the loyalty and cooperation of all of our employees to accomplish this.

Sincerely yours,

MANFRED MEYBERG,

Pres.,

Germain Seed & Plant Co.

Copy

BOARD EXHIBIT 34-E

Copied from minute book of Consolidated Seedsman's Union. Proofread by Gladys Van Sickle, April 17, 1941.

SPECIAL MEETING
BOARD OF DIRECTORS

A special meeting of the Directors of the Consolidated Seedsmen's Union Inc., with Mr. Meyberg was called at 2:00 P.M. Tuesday, October 8th, 1940. All Directors were present.

Mr. Meyberg asked for a report from each divi-

(Testimony of Kenneth Richard Luck.)

sion as to whether they accepted their salary increases as outlined by him.

Miss Wingrove reported the office accepted, but pointed out that three of their members were entitled to more of a raise in order to bring up the lower salaries they were receiving. Mr. Meyberg stated that Miss Hanna was doing routine office work that could be replaced at her same salary. Mrs. Slee was the extra girl in the Billing Department and that Miss Thomas was recently hired on the order desk. Mr. Meyberg wishes the expense of the office to remain as is.

Mr. Kayes reported the Ranch accepted, but Mr. Stearn and Mr. Wilford wished more of a raise. Mr. Meyberg stated that Mr. Stearn was more or less responsible for business at the Ranch and that it would take more business to have more pay. Mr. Meyberg will talk with Mr. Wilford.

Mrs. Anderson reported the 3rd Floor accepted, but Mr. Bushing a jack of all trades was not satisfied at receiving the same raise as Neal working in the bulbs. Mr. Meyberg stated that Neal has a better knowledge of bulbs and will talk to Mr. Bushing.

Miss Sievers reported Hill St. Store accepted. They are on their own, with a base wage and a percentage of their increase over their sales of last year. They are also to share in a percentage of sales increase for the entire store over last year if any.

(Testimony of Kenneth Richard Luck.)

Mr. Hook reports accepted with the following complaints—Mr. Otto Witt wished more. Mr. Meyberg stated he raised his pay as a kindness so he would be getting an increase along with the others, not that his work warranted more money. He is at the retiring age.

Ed Casey says good sack sewers next door receive \$110.00 per month. Mr. Hook stated Mr. Casey a good steady worker. Mr. Meyberg will talk with Mr. Casey. Mrs. Otto only received a \$2.50 raise this time and that with her \$2.50 last time brings her to \$75.00 per month the same as the girls around her. She fills packages and keeps stock. Mr. Meyberg will not pay more. Mrs. Cook is not satisfied; feels she has more responsibility than the girls working with her. Mr. Meyberg will talk with her. Pat Chavez is not satisfied. Mr. Meyberg stated his work is routine.

Mr. Butterfield asked why the new men received the same money as the older employees. Mr. Meyberg stated that it was a classification of jobs, that the new men receive the same money but will be the first to be laid off.

Mr. Meyberg will meet with Hill St. Store next Monday and explain the percentage system to them more fully.

(s) FERN ANITA WINGROVE

Acting Secretary

(s) JOHN W. BUTTERFIELD

President

JOHN W. BUTTERFIELD,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows: [457]

Direct Examination

Trial Examiner Paradise: State your name and address, please.

The Witness: John W. Butterfield, 1327 West 75th Street, Los Angeles, California.

Q. (By Mr. Cobey) Mr. Butterfield, you are employed at Germain's, are you not?

A. Yes, sir.

Q. How long have you been employed?

A. Well, I have been employed off and on there for about fourteen years. I would say about six years this last time.

Q. Six years this last time. What have you been doing there since August and September of 1937?

A. Since August, 1937, well, I have done various things at different times. I have worked in the warehouse. Then I was transferred to the retail store at Sixth and Hill. Then there was an opening on the fourth floor in the wholesale, and they transferred me back down there, and that was just more or less filling orders and like that on the fourth floor.

Q. Of the warehouse?

A. Of the warehouse, yes. That is until recently. I have been outside for the last three weeks.

(Testimony of John W. Butterfield.)

Q. What do you mean by "being outside"?

A. Out on the road selling.

Q. A salesman? [458]

A. A salesman, yes, sir.

Q. Now, can you tell me whether or not you held any office in the Consolidated Seedsmen's Union prior to September 23rd of 1940?

A. September 23rd, of 1940?

Q. For the purpose of refreshing your recollection, I think that is the date on which you accepted the presidency or was made president.

A. September 23rd, when I was elected president, yes, until April 1st. [459]

Q. This year? A. Yes.

Q. And did you hold any other office?

A. Prior to that time I was a director for one term, just a year.

Q. Director of what division?

A. Of the fourth, fifth and sixth floors.

Q. Of the warehouse?

A. Yes, of the warehouse.

Q. (By Mr. Cobey) I see. I show you Board's Exhibit 6, Mr. Butterfield, and I call your attention to the fact that on Board's Exhibit 6, which is the chart of the officers of the Consolidated Seedsmen's Union—— A. Yes.

Q. ——that Francis Wall, Junior, is listed as director for the fourth, fifth and sixth floors from February of 1939 to [460] July of 1940.

A. That's right. Wall was. I finished his unfinished term.

(Testimony of John W. Butterfield.)

Q. You finished his unfinished term?

A. That's right; Wall was.

Q. Do you remember when you came in office and when you went out?

A. No, I don't remember what date that was, Mr. Cobey.

Q. But it was some time prior to——

A. It was some time prior to this——

Q. ——to the end of his term, July, 1940?

A. To the end of his term. I don't think it was very long.

Q. And that is the only office you held in the Consolidated Seedsmen's Union——

A. That is the only office.

Q. ——until you became president, prior to September 23, 1940? A. That's right. [461]

Q. I call your attention to the fact that Board's Exhibit 35-B refers to a motion——

Mr. Watkins: Just a moment, Mr. Cobey. Those are not in evidence yet.

Q. (By Mr. Cobey) (Continuing) ——for identification, refers to the securing of new membership cards? A. That's right.

Q. Were such cards secured?

A. I believe so, yes. [462]

Q. (By Mr. Cobey) Mr. Butterfield, I think that during your term of office as president there were certain negotiations in regard to the obtaining of a closed shop, were there not?

A. Yes, sir.

(Testimony of John W. Butterfield.)

Q. Can you state, very briefly, the substance of what transpired in that connection while you were president?

A. Well, I don't know whether I can relate it from start to finish, but I do know that there has been a contract drawn up and presented to Mr. Voorhees to present to the company for the union. That was done. From there on it is Mr. Hook's problem. My term as president ran out and he was elected as president in my place.

Q. I see.

A. (Continuing) But that was done with the sanction of the union. That was done at the open meeting, and they voted they wanted a closed shop, and I felt it was my duty to push it through, which I think I did, that is, the drawing up of the contract end. Now, what Mr. Voorhees has done with it, I couldn't tell you.

Q. Now, Mr. Butterfield, calling your attention to the period of September, 1940, do you recall whether or not at [463] that time you prepared a petition for a wage increase?

A. September, 1940? That would be this last September?

Q. Yes.

A. There was a petition, if I remember right, from the wholesale division of the different floors, what the boys wanted, and that petition was presented to Mr. Meyberg.

Q. There was only one petition in existence?

(Testimony of John W. Butterfield.)

A. I believe there was three; if I remember right, there was three.

Q. Three petitions. Can you tell us who drew up and circulated the various petitions?

A. I think it was just a slip of paper passed around and the boys signed and put down what they wanted. If I remember right, I believe that is the way it was.

Q. Can you place the time when those petitions were drawn up and circulated?

A. You mean, there was supposed to be a dead line when they were supposed to be signed? Is that what you mean?

Q. No. I mean, can you state more exactly the time during which they were prepared and circulated?

A. Well, any time they could catch a particular party, they would have them sign it—they would have him sign it. That is all I can tell you.

Q. Well, let me ask you this: There has been testimony here to the effect that, I think it was around September 3rd [464] or 4th or 5th, of 1940, a meeting was held with Mr. Meyberg in his office, at which several of the employees were present, just after quitting time. Do you recall any such meeting?

A. September 3rd or 4th?

Q. Yes. A. In the early part.

Q. There has also been testimony to the effect that a dinner was held at the Terminal Club.

(Testimony of John W. Butterfield.)

A. Yes.

Q. And after that dinner a meeting was also held in the office?

A. Yes. I was at that dinner.

Q. You were at that dinner? A. Yes.

Q. And were you at the meeting afterwards?

A. Yes.

Q. Were any of these petitions presented at that time?

A. When this petition was first drawn up, it was during the term of Stanley Watson, if I remember correctly, and it seems those petitions were presented to Mr. Meyberg, and when his back was turned, those petitions were taken off his desk. The date of that I don't remember.

Q. Those were presented at the meeting after the dinner at the Terminal Club; is that correct?

A. I believe it was. I believe they was. When they was [465] presented, I didn't follow that through very closely, and I believe—I believe that is when they were presented, either presented to him the night of the meeting, or there was a meeting one night after work, I don't know what date it was, when all the employees went down there, and I believe that is when the petitions were presented. And then he made arrangements for the dinner a night or two after that, if I remember right.

Q. So it is your recollection that all of the petitions were presented at this first meeting as to which you have testified?

(Testimony of John W. Butterfield.)

A. They were, yes. And then, as I say, when his back was turned somebody had taken them off his desk. That I don't know anything about, who did it, or how.

Q. Now, do you know how many petitions were presented at that time?

A. I believe there was two petitions presented at that time, and one of the two was taken off of his desk.

Q. The other one was left there?

A. The other one, I believe, was left there.

Q. Can you state the substance of either of those petitions?

A. Well, it was for an increase in pay more than anything else. Everybody was dissatisfied with the pay they were receiving, and they wanted more. Some of the boys wanted a \$20 raise, some \$25, like that. [466]

Q. Can you tell me whether or not one was for a ten per cent increase?

A. Yes, that's right.

Q. And the other was for a greater increase?

A. Yes. As I remember, there was some that wanted ten per cent and some put down specific what they wanted.

Q. Did you have anything to do with the getting up of the petition or circulation—first, which one did you sign?

A. The ten per cent.

(Testimony of John W. Butterfield.)

Q. Do you happen to know who drew up either of the petitions?

A. As far as drawing them up, I don't think anybody exactly did. It was that some wanted one thing, and they were given these slips, you know, and they would specify it there.

Q. The slips were passed around?

A. They were passed around, and they signed whichever they wanted to.

Q. I think you testified that at this first meeting they were both presented, and then one of them was taken off the desk and the other one was left there; is that right? A. Yes.

Q. Do you know whether or not the one that was taken off the desk was ever presented to the management?

A. That I couldn't say, because I had nothing to do with it at that time.

Q. What action was taken on the one that was left on the [467] desk?

A. That was up to Mr. Watson. He was their president of the union at that time.

Q. After you became president on September 23, 1940, do you recall whether or not you took any action in respect to those petitions?

A. Yes, I did. I think that, if I remember correctly, that everybody received a wage increase, and put everybody on the same level of wages. In fact, I know he did, because we were presented with copies of the payroll, and that was shown to every-

(Testimony of John W. Butterfield.)

body, so that they would be satisfied, so that I wouldn't be making more than John Jones or he wouldn't be making more than I was, in other words.

Q. That pay increase was made on October 4th, after your meeting? When I say "your meeting," I mean the meeting of the board of directors?

A. I believe it was dated October 4th, but it dated back to September.

Q. To September 15th?

A. Whenever this was to go in effect. I believe that was correct.

Q. Is it your recollection that that pay increase was made on October 4th? Is that right?

A. It was made on the 4th of October as of September 15th.

Q. Mr. Butterfield, do you happen to know whether or not [468] that contract that you referred to, that was drawn up by Mr. Voorhees, covered working conditions generally in addition to the closed shop?

A. Yes, it did; the hours and like that. Yes, it did.

Q. Now, during your term of office did Germain's grant to you—and when I say "grant to you," I mean grant to the Consolidated Seedsmen's Union all the demands that the union made?

A. No, I wouldn't say all of them.

Q. Well, did the union at any time threaten to

(Testimony of John W. Butterfield.)

resort to a strike or boycott, or any type of economic action in the event their demands were not granted?

A. No, sir. [469]

Q. (By Trial Examiner Paradise) I have glanced through the minute book here and I find in the minutes of the meeting of February 5, 1941, at the home of Jack Butterfield, which I presume is you,—

A. Yes.

Q. —this statement:

“It was also decided that in the interests of the union in general, that it would be best to have any and all letters dictated by Meyberg concerning said union be dictated to a secretary holding union membership.” [470]

Yes.

Mr. Cobey: May I interrupt you, Mr. Examiner? That is in evidence, you know.

Trial Examiner Paradise: Oh, that is, yes.

Q. (By Trial Examiner Paradise) Referring to Board's Exhibit 35-A, what is the background of that discussion? How did it happen to come up?

A. Well, it seems like he was dictating letters, or anything, to—I don't know just how to answer you—I think it refers to—it may be worded wrong there—that if we, the board of directors, I mean, presented to Mr. Meyberg anything that was wanted, then generally he answered that by letter, and we wanted that letter written by a secretary or a person that was a member, and not a non-union member. That is what we were getting at.

(Testimony of John W. Butterfield.)

Q. Was his secretary a non-union member?

A. Yes, I believe she was. Mr. Meyberg's secretary was a non-union member, and we wanted him to dictate that letter to a member. [471]

JACK THRIFT,

a witness called by and on behalf of the National Labor Relations Board having been duly sworn, was examined and testified [475] as follows:

Direct Examination

Trial Examiner Paradise: State your name and address, please.

The Witness: Jack Thrift, T-h-r-i-f-t.

Trial Examiner Paradise: Your address?

The Witness: 334½ South McBride, Los Angeles.

Mr. Cobey: May we go off the record for a moment?

Trial Examiner Paradise: Off the record.

(Discussion off the record.)

Trial Examiner Paradise: On the record.

Q. (By Mr. Cobey) Mr. Thrift, you work down at Germain's? A. Yes.

Q. How long have you worked there?

A. I have been there about fourteen months now.

Q. What do you do down there?

(Testimony of Jack Thrift.)

A. Truck driver.

Q. Have you been a truck driver the entire time you have been there? A. Yes.

Q. Are you a member of the Consolidated Seedsmen's Union? A. Yes.

Q. When did you join that organization?

A. Well, it was about the 8th of September, of last year.

Q. Were you asked to join? [476]

A. Yes.

Q. Who asked you to join?

A. Bill Epperson.

Q. Can you tell us when and where that request was made?

A. Well, this took place about the 5th of September, 4th or 5th, along in there. Bill Epperson asked me on the shipping floor if I didn't want to join the Consolidated Seedsmen's Union, and Mr. Stanley Watson was present. I told him, "Yes, I would like to."

So he said, "I will get you an application card." The following day he gave me the card, and I filled it out and I turned it in. I was passed on. In fact, the 13th of September was the first meeting I attended.

Q. And you thereafter paid dues into the organization, is that right? That is, paid dues to the Consolidated Seedsmen's Union? A. Yes.

Q. Can you tell us how the dues were collected?

(Testimony of Jack Thrift.)

A. Bill Epperson always collected any dues on the shipping floor.

Q. That was during working hours?

A. Yes, in the morning, about 9:00 o'clock. [477]

Q. (By Mr. Cobey) Now, Mr. Thrift, calling your attention to the first part of October, 1940, can you state whether or not during that period you had any conversations with Mr. Hill?

A. Yes. It was right around the 10th of October that Mr. Hill approached me.

Q. Will you state where that conversation occurred? A. Yes, on the shipping floor.

Q. What time of day was it? [491]

A. Around 9:30 in the morning.

Q. Who else was present besides yourself and Mr. Hill? A. No one.

Mr. Watkins: When was this?

Mr. Cobey: October 10, 1940. Is that correct?

The Witness: That is approximate. I wouldn't give that date to be exact, but that is just about the date it was.

Q. (By Mr. Cobey) Now, will you tell us what was said in this conversation that you had with Mr. Hill?

A. Well, as I say, Mr. Hill approached me there on the shipping floor, as I was loading my truck.

Mr. Watkins: Just a minute. I move the portion of his answer, that Mr. Hill approached him, be stricken as a conclusion of the witness. Let him describe what happened.

(Testimony of Jack Thrift.)

Trial Examiner Paradise: Motion denied. Go ahead.

The Witness: Mr. Hill came up and asked me if I belonged to the union. Naturally, I took it to be the A. F. of L., as that is the only union he would talk about, and I asked him, I says, "Well, why?" I says, "Isn't my work satisfactory here?"

He says, "Yes." He says, "Your work is all right, but I want to know whether or not you belong to the union or intend to join."

I told him then that I belonged to the A. F. of L., in fact, I had joined some four months previous to my employment [492] there.

And he says, "Well, that makes it sort of bad, Jack, because I intended to keep you on here." And he said, "Now, I don't know what to do about it."

And then he said, "Well," he said, "this is, to my notion, the A. F. of L. and the C. I. O., all these unions, are a bunch of leeches," he said, they feed off of the—— [493]

The Witness: (Continuing) Well, he said, "They feed off of the efforts of others." He said, "You belong to the C.S.U., as well," and he said, "they are taking care of you here, whereas the dues you are paying into the A. F. of L. is doing you no good."

He then asked me something about if I couldn't get a withdrawal card. I told him that I could, but I would rather remain an active member and keep my monthly dues paid up.

(Testimony of Jack Thrift.)

That's just about all of that. Oh, just a minute, There is something here about (referring to paper)—he did say also—he said, “We don't want the A. F. of L. in here or any other union.” That is just about all that he told me in that conversation.

Mr. Cobey: Would you like to see the notes to which the witness referred?

Mr. Watkins: Yes, I would, if he was refreshing his recollection from something.

The Witness: It is all on one page there.

(Handing document to counsel.)

Q. (By Mr. Cobey) Is this (indicating) the part you referred to? A. Yes.

(The documents referred to were handed to Mr. Watkins.)

Trial Examiner Paradise: Let the record show that Board's [495] counsel has handed to respondent's counsel certain papers which the witness used in refreshing his recollection during the course of his testimony.

All right, proceed.

Q. (By Mr. Cobey) Mr. Thrift, do you recall any other conversations with Mr. Hill in regard to unions during this same period?

A. No. That's about the only one that I had.

[496]

Q. Now, Mr. Thrift, in the course of your testimony you have referred to certain notes to refresh your recollection. Can you tell us whether those

(Testimony of Jack Thrift.)

notes you have referred to—first, who prepared them? A. I wrote them myself.

Q. Can you tell us when you wrote them?

A. Well, not the exact date, but I wrote these notes out just before the—I come up the National Labor Relations Board.

Q. And when was that?

A. Well, this is—I don't know. It was about four months ago, when they first brought this case up.

Q. Was that in November, 1940?

A. It must have been about that far back. I don't know if it was November or not, but I know it was several months ago. [504]

Q. Of what union are you a member, besides the Consolidated Seedsmen's Union?

A. Local 208, Teamsters, Chauffeurs & Truck Drivers.

Q. That is known as the Truck Drivers Local?

A. Yes.

Q. And I believe you testified you were a member of that before you were employed at Germain's?

[506]

A. Yes, sir.

Q. Did you or did you not wear your A. F. of L. button when you were employed at Germain's?

A. Well, that could be answered both ways. I didn't wear my button when I first started to work there.

(Testimony of Jack Thrift.)

Q. When did you commence wearing your button?

A. I commenced wearing my button, I would say, along about the 1st of September.

Q. That is the first time you started wearing your button? A. Yes.

Mr. Watkins: 1940?

The Witness: Yes.

Q. (By Mr. Cobey) Calling your attention to some time around September 20, 1940, Mr. Thrift, do you remember any conversation with Mr. Frauenberger at that time? A. Yes, I do.

Q. Will you state what time of day it occurred?

A. Well, as near as I can remember, it was in the morning, before I loaded out. It must have been around——

Q. Where did it occur?

A. On the shipping floor there.

Q. Who was there?

A. Well, there was Johnny Epperson, Harold Frauenberger and myself.

Q. All right. Will you tell us what was said?

[507]

A. Harold Frauenberger was talking to Johnny Epperson, that is, he—Johnny Epperson walked up and Harold said, “What? You too?” and I didn’t know what to make of it at first, and then I noticed he was looking at his union button, and——

Q. Which union button?

(Testimony of Jack Thrift.)

A. The A. F. of L. Union button Johnny was wearing at the time.

And Johnny says, "Yes." He says, "When are you going to join?" something to that effect, "when are you going to join the A. F. of L.?"

Harold says, "Well, I don't know about that." And Johnny says something about, "Well, you might as well join now as to join later, regardless," or something to that effect and that was about all that was said on that.

Cross Examination

Q. (By Mr. Watkins) Mr. Thrift, you started to work for Germain's on what date?

A. May the 12th, of last year.

Q. 1940? A. Yes. [508]

Q. When you went to work, did the people who employed you there ask you about your union affiliation? A. No.

Q. You filled out an application blank, did you not? A. I don't quite understand you.

Q. Well, did you make out an application for employment, a blank for employment?

A. No.

Q. You did not? A. No.

Q. But no question was asked you about your union affiliation? A. No.

Q. How soon after you started to work there were you approached by anybody to belong to the Consolidated Seedsmen's Union?

(Testimony of Jack Thrift.)

A. How long after?

Q. Yes.

A. Well, I would say I was there right around, close to six months.

Q. Before anyone asked you to belong to the Consolidated Seedsmen's Union? A. Yes.

Q. All right. Now, I believe you testified that you first started wearing your A. F. of L. button some time in September of 1940. Right? [509]

A. Yes.

Q. And you gave a specific date. What was it?

A. I don't think I gave a specific date on it.

Q. Can you now fix a specific date in September when you started to wear it?

A. No, not to the date.

Q. How do you know it was in September?

A. How do I know it was in September? For the reason that it was the time some of the warehousemen joined. In fact, I think September 5th was the day that many of them joined, and I started wearing my button just about the same time.

Q. From that time on there were quite a few buttons around the plant, were there not?

A. Yes.

Q. Then you wore your button consistently from that point on? A. Yes.

Q. Under whom do you work?

A. Mr. Hill.

Q. Directly under Mr. Hill? A. Yes.

(Testimony of Jack Thrift.)

Q. Did you see him every day?

A. Well, almost every day.

Q. Now, then, when was the first conversation you had with Mr. Hill, that you were relating here, which took place at [510] about 9:30 o'clock? Was it on October 10, 1940? A. Yes.

Q. And who was present at that conversation?

A. Just Mr. Hill and I.

Q. Who started the conversation?

A. Mr. Hill.

Q. What did he say to you? The first thing?

A. The first thing?

Q. Yes.

A. The first thing he asked is, "Do you belong to the union?"

Q. Was that all he said?

A. Yes. Well, he says——

Q. Just a minute. Was that all he said to you at that time?

A. That is how he started the conversation.

Q. Did you make an answer to that?

A. I didn't come out and say "Yes," or "No."

Q. Well, what did you say? [511]

A. I said, "What is the matter?" I said to Mr. Hill, "Isn't my work satisfactory?"

Q. All right. Was that all you said to Mr. Hill at that time? A. Yes.

Q. Then what did he say?

A. He said, "Yes." He answered my question. Then he says, "Yes, your work is all right."

(Testimony of Jack Thrift.)

Do you want me to go on from there?

Q. Now, is that all he said? Just relate specifically the conversation that took place at that time, without your thoughts about it.

A. Yes, that is the way it started.

Q. What else was said by you next or by him?

A. Well, I told Mr. Hill, I says, "Why? Isn't my work satisfactory?"

He says, "Yes." He said "Your work is all right."

Do you want me to go on?

Trial Examiner Paradise: Go ahead.

Q. (By Mr. Watkins) What was the next thing that was said by anybody?

A. He said, "Your work is all right, but I just want to know whether or not you belong to the union or intend to join." He did put it that way, "or if you intend to join." I don't [512] know why he said that.

Q. What did you say?

A. Then I told him, I answered him. I said, "Yes, I belong to the union," and I said, "I joined the union before I come here to work."

Q. Then did he say anything more?

A. Oh, yes.

Q. What did he say next, after you told him that?

A. Well, he said, "That makes it bad, Jack, because I intended to keep you on here, but now," he says, "I don't know what to do about it." He

(Testimony of Jack Thrift.)

says, "I don't know whether to keep you on here or not."

Q. All right. What did you say?

A. Well, I didn't answer him. Then he went on——

Q. Well, what else did he say then?

The Witness: He says, "This union is a bunch of leeches who feed off of the efforts of others."

Q. (By Mr. Watkins) Did he say which union he was talking about? [513] A. No.

Q. He just said "this union"? A. Yes.

Q. (By Mr. Watkins) Did he or did he not mention any specific union?

A. No, he didn't say "A. F. of L.," or nothing. He just said, "this union."

Q. All right. What was said after that?

A. Well, after that he said that—oh, he said that—he said, "What you are doing is paying dues into the A. F. of L." That is when he mentioned the A. F. of L.

Q. This is the first time he mentioned the A. F. of L.?

A. Yes. He says, "What you are doing is paying dues into the A. F. of L., which is doing you no good at this time, and the dues that you are paying into the Consolidated Seedsmen's Union are the ones that are helping you out."

Q. Did he say during this conversation that that was the first time that he had known that you were an A. F. of L.? A. No.

(Testimony of Jack Thrift.)

Q. Didn't you so testify on your direct examination? [514] A. I don't quite get you.

Q. Well, didn't you testify on your direct examination that that meeting on October 10, 1940, was the first time Mr. Hill knew you were a member of the A. F. of L.?

A. Well, I wouldn't say that is the first time he knew I was a member of the A. F. of L., when he asked me. He might have known at some other time, through calling the union hall or through getting the information from Mr. Stanley Watson. I think Mr. Stanley Watson knew I was affiliated with the A. F. of L. at the time.

Q. Didn't you wear your button?

A. I didn't wear my button, as I say, until right around September.

Q. Well, this was October 10, 1940?

A. Oh, yes, I was wearing my button then at that time.

Q. Hadn't he seen your button? A. Yes.

Q. Then why do you think he asked you the question he did? A. I don't know.

Q. Doesn't that sound strange to you? Didn't you say, "Well, why do you ask me that? You have seen my button before this time?"

A. I have no reason to know he didn't notice me wearing the button.

Q. He hadn't noticed anybody else wearing the button? [515]

(Testimony of Jack Thrift.)

A. I wouldn't say that. I wouldn't say he hadn't noticed it. [516]

Q. Did you go to Mr. Meyberg and ask him if he would keep you on, because you had a wife and child? A. Yes, I did go to Mr. Meyberg.

Q. When was that?

A. Well, that was some time in October, as I say.

Q. That was before this conversation with Mr. Hill, wasn't it, of October 10th, that you have related? A. I am not sure of that.

Q. Well, have you got any notes that will refresh your recollection?

A. Yes, I have the notes here.

Q. As to the date on which you talked to Mr. Meyberg?

A. I think I have the definite date here. (Referring to paper.) Oh, yes.

Q. What date was it on which you talked to Mr. Meyberg?

A. The date I have here is October 2nd that I was told I was to get laid off——

Q. Now, just a minute. I don't want you to ramble on. I just want to know the date you talked to Mr. Meyberg.

A. The date I talked to Mr. Meyberg was October 3rd.

Q. 1940? A. Yes. [517]

Q. That is all. Just one other question, please. Mr. Meyberg told you, under the circumstances, he would keep you on as long as he could, did he not?

(Testimony of Jack Thrift.)

A. No.

Q. What did he tell you?

A. He said, "Well, you go on back to work and I will see Mr. Hill, and we will see if we can work something out." [518]

JOHN R. EPPERSON,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Paradise: State your name and address, please.

The Witness: John R. Epperson, 5107 Clara Street, in Bell.

Q. (By Mr. Cobey) Mr. Epperson, you work down at Germain's, don't you? A. Yes, sir.

Q. How long have you worked there?

A. Since January, 1940.

Q. What do you do down there?

A. I am on the elevator, freight elevator.

Q. You have had that job since you have been down there?

A. Except the first three or four weeks.

Q. Are you a member of the Consolidated Seedsmen's Union? A. Yes, sir.

Q. When did you join that organization? [522]

(Testimony of John R. Epperson.)

A. Well, it was a little less than three months after I went there. It would be along between the 15th and last of April, I would say.

Q. Who asked you to join?

A. Bill Epperson.

Q. Where and when did he ask you to join?

Trial Examiner Paradise: Is he your brother?

The Witness: Cousin.

Trial Examiner Paradise: Cousin?

The Witness: Why, he asked me on the shipping floor, oh, it was along the middle of the morning. I don't remember the date.

Q. (By Mr. Cobey) Can you place the month, approximately?

A. Well, as I say, between the 15th and the last of April.

Q. I see. Was anyone else present, that you recall?

A. I can't say that there was. It was right in front of Mr. Hill's office, but I can't say that there was anyone heard it.

Q. Now, Mr. Epperson, from that time on you paid dues to the Consolidated Seedsmen's Union?

A. Yes.

Q. How were those dues collected from you?

A. Well, the first three or four months Frank Miller collected them, usually right at his desk in the shipping office, and then one month, the month of October. Howard Tabor collected [523] them on

(Testimony of John R. Epperson.)

the shipping floor, and then the rest of the time Bill Epperson has collected them wherever I happened to meet him, usually around the elevator.

Q. These collections have been made during working hours? A. Yes.

Q. (By Mr. Cobey) Mr. Epperson, are you a member of a union affiliated with the American Federation of Labor? A. Yes, sir.

Q. Do you recall when you paid your initiation fee? A. September 11th, 1940. [524]

Q. (By Mr. Cobey) Mr. Epperson, I think you testified that you had a conversation with Mr. Frauenberger— A. Yes.

Q. ———some time around September 20th?

A. The 21st, to be exact.

Q. The 21st, to be exact. 1940? A. Yes.

Q. Can you tell us what time of day that conversation occurred?

A. Well, it was early in the morning, shortly after we went to work.

Q. Who was there?

A. Well, there was several around on the shipping floor, but Jack happened to be the only one that was in hearing distance.

Q. Now, will you tell us what was said?

A. Yes. I walked out off the elevator. Well, in fact, I pushed a lot of stuff out to the shipping department, and Harold was there, and looked around at me, and I had the union button on, and

(Testimony of John R. Epperson.)

he looked at the button and he said, "What, you too?"

I said, "Yes." I said, "When are you going to get yours?"

He said, "Oh, I don't know."

I said, "Eventually, why not now?" [530]

Q. Now, I think you were in the hearing room this morning, were you not, Mr. Epperson?

A. Yes, sir.

Q. You heard certain testimony in regard to certain petitions for wage increases that were circulated?

A. Yes.

Q. During the month of September, 1940?

A. Yes, sir.

Q. Did you sign any of those petitions?

A. Yes.

Q. Which petition did you sign?

A. The one for \$110 a month.

Q. Do you know who drew that petition up?

A. I am not positive of who wrote the petition up.

Q. Who brought it to you? A. Al Hook.

Q. Was that during working hours?

A. Yes, sir.

Q. Now, do you recall when those petitions or when that petition you signed was submitted to the management? [531]

The Witness: Well, I know when it was placed on Mr. Meyberg's desk, but it disappeared. [532]

(Testimony of John R. Epperson.)

Q. (By Mr. Cobey) When was it placed on Mr. Meyberg's desk?

A. Well, I don't know the exact date, but it was in the afternoon after working hours in Mr. Meyberg's office. Jack Butterfield laid it on Mr. Meyberg's desk.

Q. Can you tell us whether or not that was prior to the dinner at the Terminal Club?

A. Yes, it was the week before.

Q. You just testified that the petition that you signed was submitted by Jack Butterfield at this meeting. Were any other petitions submitted at that time?

A. Yes, there was two.

Q. Two others or one other?

A. One other that I saw him put on the desk.

Q. Did you ever see that other petition?

A. No, I didn't see the actual petition.

Cross Examination

Q. (By Mr. Watkins) Mr. Watson is a member of the A. F. of L., is he not? A. Yes.

Q. What is his first name? A. Stanley

[533]

Q. Stanley Watson. He joined at the same time the rest of you men did, around September?

A. No. He belonged before I went to work at Germain's.

Q. And he still belongs, the same as you do?

A. Yes, but to a different local than what I do.

Q. But it is still the A. F. of L.? A. Yes.

ROY YOAKUM,

a witness recalled by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

Trial Examiner Paradise: Is this the witness who was previously on the stand?

Mr. Cobey: Yes. He has been sworn.

Trial Examiner Paradise: All right. Roy Yoakum recalled. Be seated. [534]

Q. (By Mr. Cobey) Mr. Yoakum, you recall the last time that Allan Hook collected dues from you?

A. Yes.

Q. Can you place about when that occurred?

A. Just before Emily Lilly was representative and started collecting the dues.

Q. That was last summer?

A. I don't remember just when that was.

Q. It was last year? A. Yes.

Q. Now, can you tell me anybody else who was present when those dues were collected?

A. Yes. Mr. Gates was.

Q. They were collected in the presence of Mr. Gates? A. Yes, sir.

Q. Now, Mr. Yoakum, can you tell me whether or not Mr. Gates and Mr. Hill ever worked with the bull gang?

A. Yes, sir, they do, in lifting sacks and there is nobody there. For instance, if I am lifting a sack

(Testimony of Roy Yoakum.)

by myself and they come along, they will help me pile the sack.

Q. Do they ever work with the bull gang on any other occasion?

A. Not only in just that way.

Mr. Cobey: That is all.

Mr. Watkins: No questions.

Q. (By Trial Examiner Paradise) Was this one occasion when [535] Mr. Hook collected dues from you in the presence of Mr. Gates?

A. Just one time, yes, sir.

Mr. Watkins: Just a minute.

Cross Examination

Q. (By Mr. Watkins) How far was Mr. Gates away from you?

A. Well, he was about two feet.

Q. What time of day was it?

A. It was about 10:00 o'clock.

Q. 10:00 o'clock in the morning?

A. Yes, sir.

Mr. Watkins: That is all.

Redirect Examination

Q. (By Mr. Cobey) Where was it?

A. Just in front of Mr. Gates' office door on the fifth floor.

Q. Of the warehouse? A. Yes, sir.

Recross Examination

Q. (By Mr. Watkins) How did you happen to remember that?

(Testimony of Roy Yoakum.)

A. Well, I had went into the sack room to get some sacks to fill with seed, and Mr. Hook met me there and collected the dues, and while he was collecting the dues, Mr. Gates came around and started to go in his office.

Q. Is that all there was to it?

A. Well, he told Hook to not be collecting dues any more while [536] we were working, we didn't have time for that.

RALPH WOOLPERT,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Paradise: State your name and address, please.

The Witness: Ralph Woolpert, 1139 North Ontario, Burbank.

Trial Examiner Paradise: 1139—

The Witness: North Ontario, Burbank.

Q. (By Mr. Cobey) California?

A. California.

Q. Mr. Woolpert, what is your occupation?

A. Assistant business representative of the Grocery Warehousemen's Union, 595, A. F. L.

Q. How long have you held that position?

A. Two years the 10th of next month. [537]

CHARLES J. LOY,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Paradise: State your name and address, please.

The Witness: Charles J. Loy, 313 West 74th Street, Los Angeles.

Q. (By Mr. Cobey) California?

A. California.

Q. Mr. Loy, can you state whether or not you were ever employed by Germain's?

A. Yes, I was.

Q. Can you state the period of your employment?

A. Just about the middle of February until about October 15th, of 1940.

Q. Where did you work while you were at Germain's?

A. I started the first day in the office downstairs on the [541] shipping floor tubes, I guess they call it, and the second day I went to the fourth floor and I worked there the rest of the time.

Q. Now, who was working with you on the fourth floor?

A. Mr. Nesbit—oh, Mr. Nesbit, Mr. Hulphers, one other fellow that was quitting in about a week's time for another job, and Jack Butterfield.

(Testimony of Charles J. Loy.)

Q. Did Mr. Stone work with you there at all?

A. Not at that time, when I first went up there.

Q. Under whose supervision did you work?

A. Mr. Nesbit.

Q. Who gave you your assignments of work?

A. Mr. Nesbit.

Q. What rate of pay did you receive?

A. \$75 a month. That is, of course, at the time I went to work.

Q. Yes. Were you raised?

A. Yes. I went to Mr. Meyberg, oh, I guess I was there about two months. I went down and I asked him for a raise, and I believe about two or three weeks later I got a \$5 raise which made it \$80 a month, and then later on I got another one.

Q. When did you get that?

A. Mr. Hulphers and—well, in fact, the whole gang of boys in the bull gang, we all started talking about—they started talking about money and—

[542]

Q. No, I just want to know when you got that other raise.

A. Oh, I think that was about—I think that went into effect about October 4th.

Q. 1940? A. 1940.

Q. And that raise was to what?

A. To \$100 a month.

Q. Now, Mr. Loy, were you ever asked to join the Consolidated Seedsmen's Union?

(Testimony of Charles J. Loy.)

A. Well, yes, I guess I was, after I joined the A. F. of L.

Q. All right. Who asked you to join?

A. Mr. Eric Hulphers.

Q. Do you remember when and where he asked you?

A. Yes. On the fourth floor, as I was—he was making up orders and I was checking up at the time. I think Mr. Hulphers was making up orders.

Q. Do you remember about when that was?

A. No. I believe it was in September, oh, probably about between the 4th and the 11th.

Q. Now, you paid your dues to the Consolidated Seedsmen's Union?

A. No, sir, I didn't I made application and I paid \$1.00, paid the application, and there was supposed to be a committee meeting. I don't know whether it was held on a Friday or on a Wednesday, and I made application and turned it in, and I [543] thought that was all I had to do, and the next day I asked some of the boys whether they had passed on my application, and they hadn't heard about it, and somebody told me I also had to give them a dollar. So I went down and gave them a dollar.

Q. To whom did you give the dollar?

A. To Miss Viola Gates.

Q. In the office? A. Yes.

Q. During working hours? A. Yes.

(Testimony of Charles J. Loy.)

Q. To whom did you give the application?

A. Miss Viola Gates.

Q. At the same time you gave the dollar?

A. No. I gave the application on one day and came back a day or so later and gave the dollar.

Q. Do you recall whether or not some time during the early part of September, 1940, you, along with certain other persons, made a demand upon Mr. Meyberg for a wage increase?

A. Yes. We—well, the way it started off, we had talked about—

Trial Examiner Paradise: Well, now, just answer the question. Listen to the question that counsel puts to you and answer it.

Q. (By Mr. Cobey) You do recall it? [544]

A. Yes, sir.

Q. Will you tell us when it occurred?

A. I think it was about the first week in September.

Q. 1940? A. 1940.

Q. Now, will you tell us what happened?

A. Well, the way it started was—do you want it from the start?

Q. With whom did you make your request?

A. Well, it was Eric Hulphers and Bob Montgomery, I believe it was.

Q. And yourself?

A. Yes, and myself. We didn't exactly make a request for a raise right then and there. We went

(Testimony of Charles J. Loy.)

in to see Mr. Meyberg, to find out what his idea on this was.

Q. What time of day did you go in?

A. In the morning.

Q. The only persons present were you three men and Mr. Meyberg? Is that correct?

A. Yes, sir.

Q. Will you tell us what happened? [545]

The Witness: The night before a bunch of the boys went up to the union hall and saw Mr. Woolpert, and eight of us signed applications for membership in the A. F. of L. So the next morning Bob Montgomery came up and asked me if I would go down with him and Eric Hulphers to see Mr. Meyberg, and I said I would. He said he thought it would be a very good idea to ask Mr. Meyberg the details of what a certain party was supposed to have come in for the Seedsmen's Union and asked for a raise, and said he had been turned down definitely for a raise or a closed shop.

So Bob Montgomery asked me to go down, and I said, "Yes," I thought it would be a good idea for us to tell what our thoughts were, and to see what he thought.

So we went down and saw Mr. Meyberg, spoke to him, and I proceeded to ask if absolutely there was any truth in what he was supposed to have told Mr. Watson.

He said, no, Mr. Watson hadn't even come in to see him.

(Testimony of Charles J. Loy.)

Trial Examiner Paradise: Was Mr. Watson the party you referred to before, who asked for a raise and was turned down?

The Witness: Yes. I said, "I think it would probably [546] be a good idea to tell the boys—the rest of the boys in the warehouse, because they have been rather uneasy about that."

And he said, yes, it would be, and to call a meeting in his office at his convenience. And I said, "How about this afternoon?" and he said it was all right that evening, and we were to have the meeting at 4:45 after work, and that is when we asked him for the raise. He told us—first, he told us to make up a petition of what the men wanted in a raise.

Q. (By Mr. Cobey) Now, you have referred to the meeting after quitting time. Such a meeting was held? A. Yes, sir.

Q. And how many men were there?

A. Well, I should judge about twenty.

Q. What happened at that meeting?

A. Well, we told—talked about what Mr. Watson had said, and Mr. Watson came in, and about the time he was ready to relate it and he spoke right out to Mr. Watson—

Q. Who is "he"?

A. Mr. Meyberg spoke up to Mr. Watson, that Mr. Watson had not come in and asked him for a raise for any of the employees at all, and that what

(Testimony of Charles J. Loy.)

he had said was a misstatement, and, oh, there was several different things said about joining the A. F. of L., or joining another union, or having somebody come [547] in to take over that really didn't know the business. And he said, he wound it up by saying he would like to explain things entirely to us at another meeting, if it was possible, and we all agreed that it was.

He said, "Well," he said, "how would it be some night after work, and we will go to a dinner, or we will have a dinner."

And the majority of the boys said, "All right. That will be a good idea." And some of them said, well, they couldn't make it because of their families, they had to go home, and it would be kind of impossible to make it. So he suggested that we make up a list of names that would attend the dinner, and submit it to him, submit the list to him. So I believe Eric Hulphers took charge of that, went around the building, and there was quite a few of the men that did attend the dinner, and then we were to hold the meeting in his office at 7:30 or 8:00 o'clock.

Q. And was there a dinner held?

A. Such a dinner was held.

Q. And such a meeting thereafter in the office was held? A. Yes.

Q. You were there at the dinner? A. Yes.

Q. How many employees were there?

(Testimony of Charles J. Loy.)

A. Well, I should say there was about thirty, oh, between [548] thirty and forty.

Q. Were there any women there?

A. No, no women.

Q. Was anyone else there from management, besides Mr. Meyberg?

A. Mr. Schoenfeld was there and Mr. Meyberg. I believe they were the only ones representing the management.

Q. Can you tell us what happened at this meeting?

A. Yes. There really wasn't much said. He wanted to know, asked a few questions, and we didn't have any speaker, and some fellow got up that was supposed to be a vice president of the Seedsmen's Union, and designated Eric Hulphers as the speaker and he pointed him out, and we had a little argument, I believe, and I told him to sit down.

Q. Was that Erich Regan that got up?

A. Yes, I believe it was Erich Regan. It was none of his business, and told him to sit down, that there was no speaker to the meeting, it was Mr. Meyberg's meeting, and he was going to do the speaking. So then he started.

Q. What did Mr. Meyberg say?

A. Well, he explained all the workings of the organization from back about—I believe it was back about 1935 or 1933, somewhere in that time, I don't know just exactly which year it was, but he ex-

(Testimony of Charles J. Loy.)

plained how much money the company had made and how much money the company had lost, and where all [549] the dividends were going, and what he had done to help them, and all the things he had practically invented, like the twist-ems and different little trinkets he had made back east and sold, and all the returns on that was turned back into the company.

And he explained about the loans at the bank, that the loans that the bank had made to the company and how they were paid off, and that he thought it over very thoroughly and had intended to give the employees a raise.

And we said that was very good, we liked it very much.

He said, in fact, that he would have given the employees a raise a little bit sooner, but the bank examiners had the books for such a long time and had them tied up, and he hadn't had them as yet, but as soon as he received them and saw what the profits were for the year, why, he would give us a raise effective as of September 15, 1940. And he didn't specify the date that he would give us the raise, but that it was effective as of September 15, 1940.

Q. Is that all you recall as to what was said?

A. Well, a few little odds and ends. He said about other people coming in to run the business, he didn't think it was a good policy because the

(Testimony of Charles J. Loy.)

people didn't understand the business. Of course, I had an idea he meant the union organizers, or something of that type.

Mr. Watkins: Now, just a minute. I move that portion of [550] the witness' answer be stricken, the very last statement, on the ground it is a conclusion of the witness.

Trial Examiner Paradise: Yes, what the witness took it to mean is stricken. Just tell us what he said, about the outside people coming in.

The Witness: Well, to be exact, I can't remember the exact words, but if a part of them will help, I will be glad to recite them.

Trial Examiner Paradise: Just tell us what you recall.

The Witness: Well, he said something about calling the doctor in, we could call the doctor in if he couldn't remedy the situation himself, then we could call the doctor in, but he thought it would be a poor idea to do so before we had given him a chance.

Q. Do you recall whether or not he said anything about obtaining or granting a raise through the Consolidated Seedsmen's [551] Union?

A. Oh, yes. Yes, he did say that at that time, that the raise would be granted through the officials of the Seedsmen's Union, and he would notify them as to the procedure he was taking. Before that he had said that it didn't make any difference.

Q. What didn't make any difference?

(Testimony of Charles J. Loy.)

A. Whether a man belonged to the Seedsmen's Union or not.

Q. Now, Mr. Loy, you have been in the hearing room all day, have you not? A. Yes, sir.

Q. There has been certain testimony in regard to certain petitions being circulated about this time?

A. Yes.

Q. Did you sign any of those petitions?

A. Yes, sir.

Q. Which petition did you sign?

A. \$110 a month, made up—

Q. Do you know who drew that up?

A. Yes, sir.

Q. Who did? A. Al Hook.

Q. Who brought it to you?

A. Al Hook. In fact, he brought two of them to me. He brought one that I didn't like the wording

[552]

in it. It said something to the effect that Mr. Meyberg had to recognize or had to give us the money, and in such a way it was worded that I didn't like it, and I said I refused to sign it, and that anybody that would sign it, it was something like threatening a person, and I said I didn't think it would go over. But I said, "Bring a petition that sets wage scale of certain parties, and graduate it down, and, why, I think it would probably be a good idea. Then I will sign it."

Q. Do you remember when and where you signed the petition?

(Testimony of Charles J. Loy.)

A. Yes, sir. I don't remember the exact time, but it was on the fourth floor at the checking desk.

Q. During working hours?

A. During working hours.

Q. Now, can you place the date that you signed that petition, with respect to this meeting that you had with Mr. Meyberg after working hours and also the dinner at the Terminal Club?

A. Well, my nearest recollection of that was the first meeting with Mr. Meyberg, that is, with the whole group, and it was supposed to have been laid on his desk at that time.

Q. That was the meeting after quitting time?

A. Yes.

Q. The petition you signed was laid on his desk at that time?

A. Well, I saw some petitions laid on the desk, but I don't know exactly whether it was the petition that I signed. There was also one other petition.

[553]

Q. Do you know who drew up the other petition?

A. Yes, sir. Jack Butterfield.

Q. How do you know?

A. Because I talked to him about signing the \$100. He said, no, he didn't think so. I said, "Why not?"

He said, "It is too much money to ask for."

I said, "I don't think it is too much money to ask for." I said, "I only get \$70 a month." Or, I

(Testimony of Charles J. Loy.)

said, "I am getting \$80 a month, and I know you are getting a little more than I am, because you have been here longer."

He said, "I don't get much more than that, but," he said, "I will draw up a petition for ten per cent."

I said, "What is ten per cent? Ten per cent wouldn't make any raise at all." I said, "I am getting \$80 a month now. I would be getting \$90 a month. Why not ask for something that would be worth asking for? It don't hurt to ask for anything."

He said, "I am making up a petition for ten per cent." And there was quite a few people in the house did sign the petition for ten per cent.

Q. How do you know?

A. I know Nesbit signed it.

Q. How do you know?

A. Because I saw him sign it.

Q. Now, this conversation you related that you had with [554] Butterfield, you say that occurred on the fourth floor?

A. On the fourth floor, yes, sir.

Q. What time of day?

A. Well, I believe the petition I signed, I signed around just before lunch or a little bit after lunch. It was around about that time.

Q. Can you place the date?

A. No, I can't.

(Testimony of Charles J. Loy.)

Q. Can you place it with respect to the Terminal Club dinner?

A. Yes. It was before the first meeting.

Q. The first meeting?

A. The large group meeting, yes.

Trial Examiner Paradise: Would that be before you went down to the A. F. of L.?

The Witness: No, sir. We went down to the A. F. of L. before that. In fact, we went down—we went down to the A. F. of L., I believe, the night before that.

Trial Examiner Paradise: You mean this conversation with Butterfield happened on the morning after you went down to the A. F. of L.?

The Witness: Yes, sir.

Trial Examiner Paradise: All right.

Mr. Cobey: That is all. [555]

Cross Examination

Q. (By Mr. Watkins) Mr. Loy, what made you conclude that you would come back and ask Mr. Meyberg for an increase after you had been down to the A. F. of L.?

A. What made us conclude?

Q. Yes.

A. Well, I will tell you: When we first went down to the A. F. of L., everybody in the house was pretty sore, and it was supposed to have been put up before Mr. Meyberg for a wage increase by the Seedsmen's Union, and it made all the boys pretty sore when they came back to a meeting and

(Testimony of Charles J. Loy.)

found out that it was impossible to get a raise. In other words, it was said at the meeting, it was told to me. Of course, in your estimation, it would probably be hearsay, but it was that it was absolutely impossible for a raise of any kind, and it made all of us pretty mad, even though I didn't belong to the Seedsmen's Union.

Q. In other words, what you did when you came back from the A. F. of L. meeting was to see whether you could solve your problem yourself without calling in a doctor? A. No, sir.

Q. Then why did you go to the management?

A. I thought it was quite fair—it would be fair of us, at least, to notify them or find out exactly what Mr. Meyberg had said, and see if there was a possible chance for a raise. [556]

Q. In this meeting with Mr. Meyberg, did Mr. Meyberg say anything to Mr. Hulphers?

A. Did he say anything to Mr. Hulphers?

Q. Yes.

A. He said a lot of things, but I don't know whether they were addressed to Mr. Hulphers.

Q. Do you remember his addressing any remarks to Mr. Hulphers?

A. No, I don't. He was talking to Mr. Hulphers, yes. I don't know just exactly what was said though.

Q. Do you remember any conversation of this character, when Mr. Meyberg said to Mr. Hulphers, "Are you speaking for the men?" Do you remember anything of that kind?

(Testimony of Charles J. Loy.)

A. No, I truthfully don't.

Q. Do you remember any comment by Mr. Hulphers that he wasn't going to make any answer for anybody, or something to that effect?

A. No, sir. I didn't pay attention.

Q. Did you consider these petitions that you had mentioned—

A. Yes sir.

Q. —as being circulated for the Consolidated Seedsmen's Union or the employees themselves?

A. Absolutely not, because at the time Mr. Hook was not a member of—well, I guess you would call it an officers' capacity or director's capacity in the Seedsmen's Union. In [557] fact, he wasn't thought of very well there.

Q. In the Seedsmen's Union? A. Yes, sir.

Q. He was sort of sympathetic with you boys?

A. Yes, he was with us from the start, until they elected him to office. Then he dropped us. When they elected him to an office in the Seedsmen's Union, he dropped us like a hot potato.

Q. It was commonly known around there that you boys were circulating these petitions and the boys of the Consolidated Seedsmen's Union?

A. In fact, I think everybody knew it, because Mr. Hook went down to the office or some place and had one typed up; and the first one he brought out was wrote out in longhand.

Q. Mr. Hook went down to the office and got it typed?

(Testimony of Charles J. Loy.)

A. I don't know if he went to the office. There are typewriters in the office and on the fifth floor.

Q. He went some place in the plant?

A. Yes.

Q. And you boys circulated that whenever you could get names on it?

A. Mr. Hook did, and Mr. Butterfield circulated one for what we called the house.

Q. But no one interfered with the circulation of either petitions, did they? [558]

A. Not to my knowledge, no, sir.

Q. (By Trial Examiner Paradise) Only one matter, Mr. Witness: You testified that in the meeting held in Mr. Meyberg's office one afternoon after working hours, there was some talk of the A. F. of L. Do you remember having stated that?

A. Yes, I believe I did say something in that form. I don't just exactly recollect what it was.

Q. Can you tell us, or do you recall any of the conversation that was had that afternoon about the A. F. of L. between the men and Mr. Meyberg?

A. No, sir, I can't. I truthfully can't. Our main object then was to find out just exactly where we stood with Mr. Meyberg.

Q. Do you remember anything being said that afternoon about the A. F. of L. by Mr. Hulphers?

A. No, I don't.

Q. You can't give us any further light on it?

A. Not on anything said about the A. F. of L.,

(Testimony of Charles J. Loy.)

no, sir. In fact, nothing was said about the A. F. of L., that I know of.

Q. You say nothing was said?

A. Not that I know of. [559]

RESPONDENT'S EXHIBIT 1

Consolidated Seedsmen Union

Los Angeles, Calif.

Dec. 8, 1939

Germain Seed & Plant Co.

Mr. Meyberg:

At the last meeting of the Board of Directors of the Consolidated Seedsmen Union there was considerable discussion about coming holidays. The Union feels that since Christmas and New Years fall on Monday this year it would be possible to arrange a three day holiday for every Union Member at one time or the other. Consequently a plan has been worked out which we wish to submit to you for your approval.

By dividing the employees (who are union members) into two groups it would be possible to maintain business and efficiency with one group working while the other was not. The Union feels that it would be to the best interest of the Germain Seed & Plant Co., to allow half of the employees at the wholesale to have the Saturday before Christmas

(Testimony of Charles J. Loy.)

off while the other half had the Saturday before New Years off; and the employees of the Hill St. Store and the Branch to have the corresponding Tuesdays after the holiday off.

Under such a plan a skeleton crew would always be working and there should be no decrease in the business or the efficiency on the Company.

The Consolidated Seedsmen Union Inc. would appreciate your careful consideration of this plan.

Yours truly,

THE CONSOLIDATED SEEDSMEN
UNION INC.

RICHARD KADOUS

President.

RESPONDENT'S EXHIBIT 2

Consolidated Seedsmen's Union, Inc.

2415 12th Avenue

Los Angeles, Calif.

January 24, 1938

Mr. Theodore Schrader
6133 Ethel Avenue
Van Nuys, California.

Dear Mr. Schrader:

At the last Board of Directors Meeting, held on January 18th, it was reported that your present position with the Germain Seed and Plant Com-

(Testimony of Charles J. Loy.)

pany includes hiring and firing of employees for the firm.

Under the regulations of the Wagner Labor Act, your holding such a position makes you ineligible for membership in an employees' union.

Therefore, I was instructed by the Board of Directors to inform you that your membership in the Consolidated Seedsmen's Union has been cancelled, and to request that you surrender your Membership Card and Button to the Director for Division 7 who is Morris Stearn.

Trusting that you understand our position in this matter, we are

Very truly yours,
 CONSOLIDATED SEEDSMEN'S
 UNION, INC.

DT

Secretary.

RESPONDENT'S EXHIBIT 4

Agreement

This agreement made and entered into this day of February 1938 by and between the Germain Seed and Plant Company, a corporation duly created under the laws of the State of California, hereinafter called the Company, and the Consolidated Seedsmen's Union, Inc., also a corporation created under the laws of the State of California, hereinafter called the Union, witnessth:—

(Testimony of Charles J. Loy.)

Whereas it is agreed that the Union shall from time to time furnish the Company with a written list of employees who in its opinion are detrimental or undesirable to the welfare of either or both the Company and the Union.

It is further agreed that the Company shall, before discharging or laying off any employees, first consider aforesaid list and choose, if possible, employees recommended by the Union for dismissal, thereby eliminating those who are unfit, incompetent, or undesirable to the efficient operation and management of both the Company and the Union, thus resulting in a mutual benefit to both.

This agreement shall remain in effect and force hereafter subject to the right of either party to terminate the same on giving one month's notice in writing to the other party.

In witness whereof the said parties have hereunto set their hands and seals the day and year first above written.

CONSOLIDATED SEEDSMEN'S
UNION, INC.
GERMAIN SEED & PLANT CO.

RESPONDENT'S EXHIBIT 5

Germain's

Germain Seed and Plant Co.
General Offices and Warehouse
747 Terminal St. - TRinity 2821
Los Angeles, Calif.

October 5, 1940

Board of Directors

Consolidated Seedsmen's Union

With reference to the subject of salary suggestions from our Retail Division I wish to call your attention to the condition of this division of which I have spoken to you previously, namely that it is operating at a loss and it is necessary for us to approach the matter from a different angle than other departments of our business.

Please bear in mind that we must have a profit from our Retail Divisions also in order to justify and sustain salary increases both for this department and also other branches of the firm. Losses in one division cut down the firm's profits and make it harder to justify increased expense due to salary increases.

With out Retail Store operating at a loss we must have increased sales and more efficient operation there and in all other branches that operate for the benefit of the Retail Store.

In view of the foregoing I have attached a carefully outlined plan by which every employe at the Retail Store both salespeople and non-selling em-

(Testimony of Charles J. Loy.)

ployes will benefit directly by their individual efforts and also by their cooperation with others in the organization. The plan permits of substantial returns to everyone, if each in turn produces results.

The Retail Store has a selling job in increasing the number of our customers, in properly handling them both as to sales and service, in reducing expense items so that the Retail loss can be eliminated and every employe will benefit financially.

M. MEYBERG

[Illegible]

WALTER P. SAGE,

called as a witness by and on behalf of the Respondent, having been previously duly sworn, testified as follows:

Direct Examination

Trial Examiner Paradise: You have already been sworn, Mr. Sage. Be seated.

Q. (By Mr. Watkins) Mr. Sage, directing your attention to the meeting held in the warehouse at the Germain Plant on or about August of 1937, that is, the first meeting that was held there prior to the time that Mr. Voorhees was brought in, I want to ask whether or not you at that time or subsequently received any instructions or suggestions from anyone connected with the management

(Testimony of Walter P. Sage.)

of the company with regard to the holding of that meeting? A. No, sir.

Q. Did you at any time receive any instructions or suggestions from anyone connected with the management concerning the formation of an independent union? A. No, sir.

Q. Or the desirability of an independent union?

A. No, sir.

Q. Mr. Sage, at that meeting that I have just mentioned, did you make any statement to the effect that the Germain Seed Company, because of the financial condition, or otherwise, of Mr. Schoenfeld and Mr. Meyberg was in a position to close up [564] the plant? A. No, sir.

Q. Are you positive of that?

A. I am positive of that.

MANFRED MEYBERG,

called as a witness for the Respondent, having been previously duly sworn, testified as follows:

Direct Examination

Trial Examiner Paradise: You have already been sworn. Be seated, please.

Q. (By Mr. Watkins) Mr. Meyberg, you are familiar, are you, with the duties of the various men working in the plant? A. I am.

Q. Are you familiar with the duties of Mr. Sage, who just [565] testified? A. I am.

(Testimony of Manfred Meyberg.)

Q. Will you state whether or not he is in a supervisory capacity, or, state briefly what his duties are, please?

A. He is a purchasing agent; buys sundries and certain articles connected with a definite department down there.

Q. Does he have the power to hire or fire anyone?

A. No, sir.

Q. Or recommend hiring or firing? A. No.

Q. What about Mr. Hook? What is his capacity?
Mr. Al Hook, I believe that is.

A. He is a millman. A millman is a man that has charge of the—in connection with the cleaning of the seeds, helping in that department.

Q. Does he have the power to hire and fire anyone? A. No.

Q. Or recommend hiring or firing?

A. No, sir.

Q. What about Mr. Frauenberger? At that time he was a shipping clerk. That is prior to the last position that he had. What about his position at that time?

A. He had charge of deliveries.

Q. City shipping, rather?

A. City shipping, yes. He had no rights in connection with [566] labor in any instance.

Q. He doesn't hire or fire? A. No.

Q. Or didn't have the power to hire or fire?

A. No.

Q. Or to recommend hiring or firing?

(Testimony of Manfred Meyberg.)

A. No.

Q. Would you classify Mr. Hook, for instance, as a gang leader or leadoff man, or do you have any such classification in your work?

A. We don't have any classification of that kind, but I guess it is a man that knows a little more, handles some of the work, tells some of the boys what to do, and so forth. If that is so, that is what his duties would be.

Q. I believe Mr. Watson is in the same position now as Mr. Frauenberger did occupy? He is in charge of city shipping? A. Yes.

Q. Would you classify Mr. Hook, Mr. Frauenberger in the work he did do, and Mr. Watson, as doing substantially the same character and class of work? A. I would say so.

Q. That is with respect to their supervisory powers? A. Yes, that is what I mean.

Mr. Cobey: Mr. Examiner, I would like to request that that question and answer be stricken as conclusions of the [567] witness. I think the duties as outlined speak for themselves.

Trial Examiner Paradise: I will let the answer stand.

Q. (By Mr. Watkins) Mr. Meyberg, will you state what funds or property or other thing of value either you or your corporation has given or donated to the Consolidated Seedsmen's Union since its inception?

(Testimony of Manfred Meyberg.)

A. I think—I know we gave them some money to buy some ice cream on a picnic. We paid—we loaned them a truck for a picnic. We paid a traffic ticket for one of the boys that drove the truck, and once we gave some prizes, that is, cigarettes, in connection with the baseball game.

Q. Was this all at the same event or at different events? A. At different events.

Q. Were those events which all of the employees of the company attended? A. Yes.

Q. Or were invited to attend?

A. Yes, I think they were invited by the union.

Q. Did you at any time give any instructions or make any requests of anyone under you, whether a supervisor or an employee, that an independent union be formed? A. Absolutely not.

Q. And did you give any instructions or make any requests of anyone under you that an effort be made to keep out any outside union? [568]

A. No.

Q. Did you ever make a request for a list of union members, that is, of the Consolidated Seedsmen's Union? A. Did I make a request?

Q. Yes, did you make such a request?

A. No.

Q. Did you ever make any request for a list of delinquent union members? A. No.

Q. Mr. Meyberg, one of the witnesses I believe has testified that on or about August or September of 1937 there was a general meeting called of

(Testimony of Manfred Meyberg.)

the supervisors and older employees in or near your office. Do you recall any such meeting having been held? A. One that I attended?

Q. Yes, that was called for the general supervisory personnel and also some of the older employees?

A. For what purpose? I mean, we have had meetings down there, but I meant any special purpose?

Q. Presumably to discuss the organizing activities that were going on around the plant there.

A. Absolutely not.

Q. Do you remember any meeting of any character for the discussion of such a subject?

A. No. [569]

Q. You know Mr. Richard Kadous who used to work for you? A. Yes, sir.

Q. Were you the one who was responsible for his discharge? A. I was.

Q. Was he at that time the president of the Consolidated Seedsmen's Union? A. Yes.

Q. Did you ever discharge or lay off or give instructions for the discharge or layoff of any employee because he was delinquent in his dues to the Consolidated Seedsmen's Union? A. No.

Q. Did you ever discharge or lay off or give instructions for the discharge or layoff of any employee because he had agitated against the Consolidated Seedsmen's Union? A. No.

Q. Was there ever any distinction made, so far

(Testimony of Manfred Meyberg.)

as you were concerned, or under your direction, between members and non-members of the Consolidated Seedsmen's Union, with respect to their work at the plant— A. None.

Q. —or elsewhere? A. No.

Q. You have a secretary at the present time who is not a member of the Consolidated Seedsmen's Union; is that correct. A. Correct.

[570]

Q. Has she ever discussed with you whether or not she could belong to the union?

A. Whether she should?

Q. Yes, or whether she could.

A. She has discussed it with me, yes.

Q. What did you tell her?

A. I told her she should do as she pleased.

Q. You didn't restrict her one way or the other?

A. Absolutely not.

Q. Directing your attention, Mr. Meyberg, to a time on or about the early part of October of 1940, do you remember whether Mr. Thrift, I believe it is Jack Thrift, came in to see you about his being laid off?

A. I remember his talking to me about it.

Q. Do you remember who was present at the time?

A. No one was present; just Jack and myself.

Q. Was it during working hours?

A. Yes, up at the retail store.

(Testimony of Manfred Meyberg.)

Q. Will you state what was stated by each one of you?

A. He came to me and he said, "Mr. Meyberg, I understand I am going to be laid off." He said, "It is going to make a hardship on me. My wife is going to have a baby," and he said, "I don't know where—" He said, "I don't know where I would get another job."

I said, "Well, leave it with me and I will look it up." [571]

He said, "Thank you." And that was the end of the conversation.

Q. Did you thereafter look it up?

A. Yes. When I got down to the wholesale plant, I called in Mr. Hill and told him my conversation, and told him to take care of Thrift.

Q. And Mr. Thrift is still there, is he, at the present time? A. Yes.

Q. Did you know at the time Mr. Thrift came into your office on or about October 3, 1940, that he was a member of the American Federation of Labor?

A. You mean, when I talked to him up at the retail store?

Q. Yes. A. Yes, I understood so.

Q. Mr. Meyberg, I show you Board's Exhibit 12-A. I asked you to examine that while we were recessing, and I asked you to note the various suggestions listed and remarks made in pencil after each one. I now ask you if that is substantially

(Testimony of Manfred Meyberg.)

correct in accordance with your understanding of your agreement with those suggestions?

A. Yes, it is.

Q. And were those——

Trial Examiner Paradise: Excuse me. I don't understand what that last answer is. Does that mean the items marked "O.K." were the items you agreed to? [572]

The Witness: Correct, and the other ones were for discussion.

Q. (By Mr. Watkins) Was there ever any agreement setting forth the suggestions therein embodied, signed by the company? A. No.

Q. Was a written agreement embodying those suggestions ever presented to the company for signature? A. No.

Q. Mr. Meyberg, I show you Board's Exhibits 18-A and 18-B, and I will ask you to examine them and then I will ask you questions about them.

(The documents referred to were examined by the witness.)

Q. Board's Exhibit 18-A is a copy of a letter addressed to the company, stating that the Consolidated Seedsmen's Union has a majority of the employees. Board's Exhibit 18-B is your reply recognizing the union, and stating that you have checked and found they do have a majority. Will you state what you did to determine the majority, after you received Board's Exhibit 18-A and before you wrote Board's Exhibit 18-B?

(Testimony of Manfred Meyberg.)

A. We received a list of the names. I turned them over to Mr. Sidebottom to check. Mr. Sidebottom checked them and reported to me that they were in order, and, consequently, I wrote the letter.

Q. Did you direct him to check not only the names, but the [573] signatures? A. Correct.

Q. I show you, Mr. Meyberg, Respondent's Exhibit 1, which is a letter to the company from the Consolidated Seedsmen's Union, with reference, I believe, to time off before Christmas and New Year's, the letter being dated December 8, 1939.

A. Yes.

Q. Will you explain, please, what was done with respect to that request?

A. We carried out the suggestion of the union and worked out something for the employees, so that they could get the holidays suggested.

Q. I show you a further letter, being Respondent's Exhibit 3, with reference to a similar matter concerning Decoration Day, I believe, and the 4th of July. Will you state, please, what was done by the company with respect to that?

A. The same thing was done there, where the request was made, and we carried out their suggestion. [574]

(Testimony of Manfred Meyberg.)

RESPONDENT'S EXHIBIT 3-A

Los Angeles, Calif.

May 24, 1939

Mr. Manfred Meyberg
Germain Seed & Plant Company
747 Terminal Street

Dear Mr. Meyberg:

At a special meeting of the Board of Directors of the Consolidated Seedsmen's Union, held at noon on May 24, it was voted that the Union ask the Germain Seed & Plant Company to give its employees either Monday before Decoration Day or Monday before the 4th of July as a holiday; this providing that only half of the employees take the day before Decoration Day, and the other half have the day before the 4th of July.

Therefore, your early reply to this request will be greatly appreciated.

Yours very truly,

CONSOLIDATED SEEDSMEN'S
UNION

RICHARD KADOUS

Pres.

RK:DT

(Testimony of Manfred Meyberg.)

RESPONDENT'S EXHIBIT 3-B

May 24, 1939

Consolidated Seedsmens Union,
Los Angeles, Calif.

Gentlemen:

Att. Mr. Richard Kadous.

This is to acknowledge receipt of your letter requesting Germain Seed & Plant Co. to give its employees either Monday before Decoration Day or Monday before the Fourth of July as a Holiday. This would allow half of the employees to take the day off before Decoration Day and the other half, the day before the Fourth of July.

The management has considered this suggestion and it is their pleasure to advise you that bulletins to this effect have been issued to the Department Managers.

Thanking you for taking this matter up with us, we remain

Sincerely yours,

GERMAIN SEED & PLANT CO.,
MANFRED MEYBERG,

Pres.

MMS

Q. (By Mr. Watkins) Respondent's Exhibit 3-B is the letter of the company in reply to Respondent's Exhibit 3-A? Is that correct? A. Correct.

(Testimony of Manfred Meyberg.)

Q. I show you Respondent's Exhibit 4, which purports to be a draft of some proposed agreement between the Consolidated Seedsmen's Union and the company, and will ask you whether or not you received that document?

(Handing document to witness.)

A. I saw that document, yes.

Q. Do you remember about when it was received by the company? A. No, I do not.

Q. Do you remember from whom it was received? A. No, I don't remember that.

Mr. Watkins: This document, Mr. Examiner, is a proposed agreement concerning the preferential employment of members of the Consolidated Seedsmen's Union. [575]

Q. (By Mr. Watkins) I will ask you, Mr. Meyberg, whether or not the company ever agreed to this Respondent's Exhibit 4, either in form or substance? A. Absolutely not.

Q. I show you Respondent's Exhibit 5, which is a letter addressed to the Board of Directors of the Consolidated Seedsmen's Union, and signed by you, for the company I believe, and will ask you whether or not that letter was written on or about the same time as a similar letter dated October 3, 1940, being Board's Exhibit 34-D, and being the announcement with respect to increase in wages to the employees of the warehouse?

Mr. Cobey: May I have the question read?

(Testimony of Manfred Meyberg.)

Trial Examiner Paradise: Read it, please.

(The question was read by the reporter.)

The Witness: I don't remember the other letter.

Q. (By Mr. Watkins) I will show you Board's Exhibit 34-D, which I referred to in my previous question, Mr. Meyberg, and ask you to examine it.

(Handing document to witness.)

A. Yes, that letter was written.

Q. In other words, Board's Exhibit 34-D concerns the employees of the warehouse, and Respondent's Exhibit 5 concerns the employees in the retail store. Is that right?

A. Correct, yes, sir. [576]

Mr. Watkins: You may ask him.

Cross Examination

Q. (By Mr. Cobey) Mr. Meyberg, how did you know Jack Thrift was a member of the A.F. of L. when he came in to talk to you about his pending layoff?

A. Mr. Hill had told me.

Q. When did he tell you that?

A. Oh, prior to the time when Thrift had talked to me.

Q. Before he had come in? A. Yes.

Q. How long prior? Do you remember?

A. That I wouldn't remember.

A. Correct, yes, sir.

Q. There has been testimony here to the effect that the Consolidated Seedsmen's Union from time to time submitted lists to you of members who were

(Testimony of Manfred Meyberg.)

delinquent in the payment of their dues, and also, that they submitted lists to you of members of the Consolidated Seedsmen's Union who were [577] unemployed at different times, so that they might be given preference in re-hiring when vacancies occurred. Now, did you receive these monthly lists from them?

A. I didn't receive them monthly. I have had lists and in some instance I recognized them and in some instances I did not. It depended on the situation and the people who were on the list.

Q. As I understand your testimony then, you used your own judgment as to what to do about the names that were submitted to you on these lists, regardless of whether they were members in good standing, at the Consolidated Seedsmen's Union or not? A. Yes, I did.

Q. And is it your testimony, then, that their union membership or non-membership, or their good standing or bad standing in the union had nothing to do with the action which you took in regard to these people? A. Correct.

Q. Did you ever so advise the Consolidated Seedsmen's Union? A. No, I did not.

Q. Did you have a conference with the Consolidated Seedsmen's Union about the agreement which has been marked Respondent's Exhibit 4?

A. Which one is that? This one?

Q. That is the one before you.

A. I don't remember exactly about that. Frankly

(Testimony of Manfred Meyberg.)

speaking, I [578] don't. I know we didn't agree to anything of that kind, but how it came up or how it came to me, I do not remember the circumstances.

Mr. Watkins: Mr. Examiner, are you leaving a particular question there? May I ask a question then which I think might clarify the matter?

Trial Examiner Paradise: Certainly.

Mr. Watkins: Did you have instances in which so-called grievances were filed with you about such matters, and in which you did hire the union member, or something of that character?

The Witness: I have had instances of that kind, yes.

Mr. Watkins: That is all.

Q. (By Trial Examiner Paradise) I don't understand that. Will you explain that, please?

A. Well, they would—a committee would come in, or somebody from the union would, and inquire if I would hire a certain member of the union. In some instances I would say, yes, I could, and in other instances I would not.

Q. Then, as I understand your testimony, you never gave the Consolidated Seedsmen's Union any reason for believing that their members were entitled to any preference?

A. Not in any form, except by conversation, where I told them I would try to take care of them where I could.

Your question is whether we gave them preference over [579] anybody else that might apply for

(Testimony of Manfred Meyberg.)

a position? Preference over—what I would like to get clear in my mind is preference over whom.

You see we have—let me explain this to you: We have in our work down there a number of people that come in temporarily during the busy season, and they may have come in temporarily for five or six years and they may get to know the organization, and presumably some of those people were members of the union, and their thought was that presumably where any extra work would come in, that we would favor them rather than some new employee, where somebody might come in in connection with a job, and in those instances where the people were good and where they have been coming back for years, why, we have always favored them, whether they were union members or not.

Q. Then, as I understand your testimony, you never made any statement to the Consolidated Seedsmen's Union, which should have led to a belief that if you had two people who had been working, let us say, temporarily for four or five years, and one was a member of the Consolidated Seedsmen's Union and the other was not, that the union member would get preference?

A. If the union member was the best worker, he would be preferred. If the other one was, he would get the preference.

Q. And if all factors were equal, and one was a union member and one was not, did you ever state what your policy was on that? [580]

(Testimony of Manfred Meyberg.)

A. Yes. I told them I would favor the union man or the woman, whichever the case might be.

Q. Now, are you able to recall when you made that statement of policy to the Consolidated Seedsmen's Union?

A. I wouldn't be able to say that, but it has been a long time ago.

Q. Do you remember whether or not it was in connection with the discussion of that agreement?

A. No, it was not.

Q. Was there a similar statement of policy with respect to the layoff of employees, that is, if two employees were equal in efficiency and experience, and one were a member of the Consolidated Seedsmen's Union and the other were not, that preference would be given to the one who was a member of the union?

A. Well, frankly speaking, I wouldn't know who were members of the Consolidated Union and who weren't, and I don't believe the personnel or the person who had charge of the hiring and firing of those people knew either.

Q. Who was that person?

A. Well, it might be—I don't know what department that might be in.

Q. Of course, these union lists contained some information along that line, did they not?

A. I don't know who were members of the union. I haven't [581] the least idea who is a member of

(Testimony of Manfred Meyberg.)

the union and who isn't a member of the union. It never came to my attention.

Q. All right. Now, one other subject I wanted to ask you about, Mr. Meyberg. Were there occasional meetings of supervisory employees and older employees for different reasons?

A. What do you mean, "for different reasons"?

Q. I mean, were there meetings of supervisory employees and the older employees from time to time?

A. We haven't discriminated. We have a meeting every Saturday morning down at our place. The place is closed, but our department managers are down there every Saturday morning.

Q. And those meetings are for what reasons?

A. Organization meetings for the purpose of bettering the service, in connection with the service.

Q. And who attends them?

A. The department managers.

Q. Will you name the people who attend them?

A. Mr. Sage, Mr. Hill, Miss Wilson, Miss Court, Mr. Marks, Mr. Gates, Mr. Pieters—let's see if there is anybody else; I guess that is all—and Mr. Schoenfeld.

Q. Have you had meetings at which other employees were present, besides these department managers—

A. No.

Q. —whom you have mentioned? A. No.

(Testimony of Manfred Meyberg.)

Q. Has Mr. Frauenberger, in particular, ever attended a meeting which was limited to supervisory employees of the company and such older employees?

A. Not to my knowledge. He might have come up to see me on some point in his department, but as far as the meeting was concerned, I don't remember anything.

Q. There was a statement attributed to Mr. Frauenberger by one of the witnesses in this case, to the effect that he had sat in on meetings with the higher-ups in the management. Is that correct?

A. Not that I remember. [583]

RESPONDENT'S EXHIBIT 6-A

EXCERPTS FROM MINUTES OF MEETING OF BOARD OF DIRECTORS OF CONSOLIDATED SEEDSMEN'S UNION

October 13, 1937

Page 1, Line 4—page 2, Line 9

And

Page 3, Lines 23-26

The meeting of the Board of Directors was called to order by the President, Harold Frauenberger, at 7:30 o'clock P.M., on October 13, 1937, at the residence of Tom Farley, 713 W. 84th St., Los Angeles, California.

Rollcall showed all the Directors present except R. Luck.

The minutes of the meeting held September 28th were read by the Secretary, and it was moved by Tom Farley and seconded by Blanche Eaton that these minutes be approved as read. Motion carried.

The minutes of the meeting held October 5th were then read by the Secretary, and it was moved by Harry Fenster and seconded by Morris Stearn that these minutes be approved as read. Motion carried.

Harold Frauenberger reported that in accordance with instructions given him at the meeting of September 28th, he had secured the Corporation Seal, Membership Cards, Buttons, and additional Membership Application cards. It was moved by Morris Stearn and seconded by D. G. Hatfield that this report be accepted. Motion carried.

The secretary read the following seventeen applications for membership:

- | | |
|------------------|-------------------|
| Guy E. Lincoln | E. J. Porter |
| Theo I. Fielding | L. Helen Martin |
| Justin Scharff | Otto A. Witt |
| E. Ganster | Frances Fox |
| William J. Smith | Clara L. Seastedt |
| Eleanor Newmark | Margaret Weihe |
| Elton S. Cadd | Evelyn E. Fox |
| Louise Grow | Helen Linnell |
| Ethel Durand | |

It was moved by Harry Fenster and seconded by

Blanche Eaton that these membership applications be accepted. Motion carried.

Bills read were as follows:

To the Treasurer for supplies\$ 1.45

To the Secretary as follows:

Refund Initiation fee to A. W.

Huskins\$ 1.00

Filing of Corporation Papers with
the County Clerk 1.00

Stationery etc. 3.00

Buttons & Corporation Seal 20.70

Membership Cards 7.21

Membership Application Cards 1.50

\$34.41

It was moved by Blanche Eaton and seconded by D. G. Hatfield that these bills be paid by the Treasurer. Motion carried.

Motion was made by Morris Stearn and seconded by D. G. Hatfield that \$2.00 be paid to Tom Farley for the use of his home for this meeting. Motion carried.

It was moved by Morris Stearn and seconded by Blanche Eaton that Voorhees & Voorhees be paid \$10.00 on account. Motion carried.

The Secretary and Treasurer were instructed to go ahead and purchase whatever supplies were needed and present their bill at the next meeting.

(Page 3, Lines 23-26)

It was moved by Harry Fenster and seconded by Blanche Eaton that the Secretary secure the bond for the Treasurer at an expense of \$3.75 for one year, and that the Treasurer draw this amount in favor of J. B. Zweigart & Company in payment of same. Motion carried.

RESPONDENT'S EXHIBIT 6-B

EXCERPTS FROM MINUTES OF MEETING OF BOARD OF DIRECTORS OF CONSOLIDATED SEEDSMEN'S UNION

December 7, 1937

Page 2, Lines 7-12

Richard Luck reported that Mae Molyneaux felt that seniority should count when temporary work, such as radio work, started and extra help was needed. Richard Luck was advised to take the matter up with Mr. Meyberg.

As nothing definite had been agreed upon in regard to the hours and wages of Viola Gates, Fern Wingrove was advised to see Mr. Meyberg in this regard.

RESPONDENT'S EXHIBIT 6-C

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOLIDATED SEEDSMEN'S UNION

January 18, 1938

Page 2, Lines 14, 15

And

Page 2, Line 32—Page 3, Line 8

R. Luck reported that in regard to Mae Molyneaux, as the radio work had not as yet started, she had not been employed as yet.

(Page 2, Line 32—Page 3, Line 8)

Morris Stearn reported that Theodore Schrader, a member, working at the Van Nuys Ranch Store, now held the position of hiring and firing employees. As no member of the Union can be in a position of authority with the right to hire and fire, it was moved by Harry Fenster and seconded by R. Luck that Theodore Schrader be removed from the membership list. Motion carried unanimous. The Secretary was instructed to write Mr. Schrader and inform him of this action of the Board of Directors.

It was decided to ask Mr. J. P. Voorhees to speak at our next general meeting to be held on January 25th, for about 15 minutes, on what other Unions are doing, and what the League of Independent Unions is and is striving for.

RESPONDENT'S EXHIBIT 6-D

EXCERPTS FROM GENERAL MEETING OF
THE MEMBERS OF THE CONSOLIDATED
SEEDSMEN'S UNION, INC.

February 22, 1938

Page 1, Lines 8-10;

And

Lines 15-18.

And

Page 2, Lines 5-16.

President Frauenberger introduced Mr. Michael Fanning, Executive Secretary of the League of Independent Unions, who told us about the League and then answer question asked by the members.

(Lines 15-18)

Allan Hook and Theo Fielding were each called upon to report their recommendations after attending a meeting held February 4th by the League of Independent Unions. After some discussion, any decision in regard to this Union joining or not joining the League was laid over until the next meeting.

(Page 2, Lines 5-16)

Mary Martinez asked whether temporary employees, those who are known to be employed for a specified short time, were to be approached and try to secure their membership to this Union. Presi-

dent Frauenberger reported that so far these employees were not being approached.

William Epperson brought up the matter of the drivers getting overtime. He was instructed to turn in his overtime, in writing, to Mr. Hill.

H. E. Coleman inquired as to what was being done about the petitions signed at the retail stores in regard to members having two half days off per month. He was advised by the President that the Board of Directors expected to meet with Mr. Meyberg in a few days in regard to this matter.

Fern Wingrove suggested that something be done in regard to ventilation at the office.

RESPONDENT'S EXHIBIT 6-E

EXCERPTS FROM MINUTES OF MEETING OF BOARD OF DIRECTORS OF CONSOLIDATED SEEDSMEN'S UNION

March 1, 1938

Page 1, Lines 20-24

Due to the fact that Edward Miller, who was employed at the Hill Street Store, had not proved to be a permanent employee, it was moved by D. G. Hatfield and seconded by Fern Wingrove that Mr. Miller be refunded his initiation fee of \$1.00 and two months' dues of \$1.00 and his application for membership refused. Motion carried.

RESPONDENT'S EXHIBIT 6-F

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOL-
IDATED SEEDSMEN'S UNION

May 3, 1938

Page 1, Lines 20-23

It was reported by Mr. Fenster that at the Main Street Store a Union Member had been laid off and a non-Union Member kept on. However, as the Union Member made no request that his case be investigated, the matter was dropped.

RESPONDENT'S EXHIBIT 6-G

EXCERPTS FROM GENERAL MEETING OF
THE MEMBERS OF THE CONSOLIDATED
SEEDSMEN'S UNION, INC.

July 18, 1938

Page 1, Lines 12-18.

The matter of what attention to give the members who are home ill and away from work, was discussed; and on motion made by Tom Farley, seconded by Morris Stearn, and carried, it was decided to send \$5.00 each to Myrtle Butterfield and Minnie T. Sievers, as they are both now ill at home. The motion included that hereafter this practice will be followed only when so voted and passed on by the Directors.

RESPONDENT'S EXHIBIT 6-H

EXCERPTS FROM GENERAL MEETING OF
THE MEMBERS OF THE CONSOLI-
DATED SEEDSMEN'S UNION, INC.

August 15, 1938

Page 1, Lines 10-14.

Eric Regan brought up the matter regarding eight hours a day with the same pay, instead of nine hours at the ranch. Stanley Watson moved that this question be taken up at the next Directors' meeting. The motion was seconded by Louie Fenster and carried.

RESPONDENT'S EXHIBIT 6-I

EXCERPTS FROM MINUTES OF SPECIAL
MEETING OF BOARD OF DIRECTORS
OF CONSOLIDATED SEEDSMEN'S
UNION

September 19, 1938

Page 1, Lines 4-17

There was a general discussion of Erich Regan having the right to hire and fire, and whether or not he has a right to be a member of the Union. If he does have the right to hire and fire, this is a violation of the Wagner Labor Act, and he must resign from the Union.

Erich said he could prove he does not hire and fire. Says he does not pay Social Security or have a license to do business.

It was moved by Fern Wingrove that we get legal advice upon this matter. The motion was seconded by J. V. Nesbit and carried.

Erich offered to resign from membership and his office in the Union if the Board of Directors found this to be necessary.

RESPONDENT'S EXHIBIT 6-J

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOLIDATED SEEDSMEN'S UNION

October 4, 1938

Page 1, Lines 8-10

There was a discussion regarding the membership of Erich Regan and it has been decided that he is eligible. This has been verified by legal advice.

RESPONDENT'S EXHIBIT 6-K

EXCERPTS FROM GENERAL MEETING OF
THE MEMBERS OF THE CONSOLIDATED
SEEDSMEN'S UNION, INC.

October 17, 1938

Page 1, Lines 21-24.

Mrs. Hook and Mary Ann Miller were taken from their jobs, put on radio work at 33 cents an hour instead of 40 cents. Should they get their back wages? This is to be taken up with Mr. Meyberg.

RESPONDENT'S EXHIBIT 6-L

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOL-
IDATED SEEDSMEN'S UNION

January 3, 1939

Page 2, Lines 18-22

Amos Kays said that Clyde Etheridge was not satisfied that he was promised work 9 hours a day and that he had only been working 8 hours, while non-union members were working much longer hours. Richard Luck is to see Mr. Clark and settle this question.

RESPONDENT'S EXHIBIT 6-M

EXCERPTS FROM MINUTES OF GENERAL
MEETING OF CONSOLIDATED SEEDS-
MEN UNION

September 26, 1939

Lines 8-1/2—12-3/4

The President mentioned the Petition that had been circulated in the Division #3 with the general request for a raise. There seemed to be only one person from that division present so very little more could be ascertained as to the exact desires of the members. Mr. Kadous explained that he had talked to Mr. Meyberg recently and had understood that a raise was possible for those who were in the lower salary bracket. He also explained that at the first of Nov. the State law would compel the Germain Seed & Plant Co. to cut the working hours down to 42 per week and that Mr. Meyberg had planned to cut them to 40 hrs. per week.

RESPONDENT'S EXHIBIT 6-N

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOL-
IDATED SEEDSMEN'S UNION

October 3, 1939

Lines 6, 7

The President mentioned the Petition which was signed by the members of one division and said that

practically all of the people who were entitled to a raise had received it.

RESPONDENT'S EXHIBIT 6-O

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOL-
IDATED SEEDSMEN'S UNION

June 4, 1940

Lines 27-29

A long discussion on the Union's status was held. Hazel Brown was mentioned as being out of work while non-union members were working.

RESPONDENT'S EXHIBIT 6-P

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOL-
IDATED SEEDSMEN'S UNION

November 6, 1940

Page 1, Lines 13½-14½

And

Page 1, Line 32—Page 2, Line 3

Miss Wingrove is to find out if Mr. Porter and Mr. Ganster are being placed in new positions *were-* in they will hire and fire.

(Page 1, Line 32—Page 2, Line 3)

It was brought to attention that Mr. Meyberg has not as yet answered the Board of Directors as to whether or not he will give a closed shop. As soon as all new membership cards are signed there is to be a meeting with Mr. Meyberg for a definite answer.

RESPONDENT'S EXHIBIT 6-Q

EXCERPT FROM GENERAL MEETING OF
THE MEMBERS OF THE CONSOLIDATED
SEEDSMEN'S UNION, INC.

November 19, 1940

Page 2, Lines 1-11

The question of a closed shop was again brought up by Amos Kayes, which brought into discussion the new membership cards which every member of the Union has been asked to sign within the last month. Mr. John Epperson asked why the paragraph was changed and was told that the lawyer recommended it as a step in helping to attain a closed shop. Here Jack Butterfield stated that the lawyer said that the big mistake made in organizing the Union was not asking for and getting a closed shop. Robert Montgomery then made a motion and Tom Farley seconded it that the Directors again ask Mr. Meyberg regarding a closed shop. Motion carried.

RESPONDENT'S EXHIBIT 6-R

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOLI-
DATED SEEDSMEN'S UNION

December 4, 1940

Page 1, Lines 12-15

and

Page 2, Lines 5-10; 17-20

Old business was asked for and it was reported by Fern Wingrove that after contacting Mr. Johnson for verification, that Mr. Ganster and Mr. Porter were not allowed Union membership since they have been vested with power to hire and fire.

(Page 2, Lines 5-10; 17-20)

The situation of a closed shop was again discussed and it was decided that on Mr. Meyberg's return, since he is now in the East, Jack Butterfield will see him for the purpose of setting a definite time to hold a meeting with the officers and Directors to clear up this situation, by getting his (Mr. Meyberg's) disposition regarding same.

(Page 2, Lines 17-20)

A motion was made by Fern Wingrove and seconded by Mr. Hook that Viola Gates mail checks in the amount of \$5.00 each to Margaret Hanna and Gertrude Pringle, this being the sick benefit given to all Union members in good standing.

RESPONDENT'S EXHIBIT 6-S

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOLI-
DATED SEEDSMEN'S UNION

January 8, 1941

Page 1, Lines 11-13

Mr. Butterfield reported that due to the holidays and business being so heavy, he hadn't had a chance to contact Mr. Meyberg in regards to his disposition regarding a closed shop.

RESPONDENT'S EXHIBIT 6-T

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOLI-
DATED SEEDSMEN'S UNION

February 5, 1941

Page 1, Lines 20 $\frac{1}{2}$ -26 $\frac{1}{2}$

It was decided by all present that the best way to get the situation of a closed shop cleared up was to have a meeting with Mr. Meyberg and all Directors and officers, at a time to be set by him, (Mr. Meyberg). It was, therefore, decided that the plan to be followed was have a contract drawn up by the lawyer, Mr. Voorhees, which would be satisfactory to all, to be submitted at the meeting to be held in the Globe Coffee Shop.

RESPONDENT'S EXHIBIT 6-U

EXCERPT FROM GENERAL MEETING OF
THE MEMBERS OF THE CONSOLIDATED
SEEDSMEN'S UNION, INC.

March 21, 1941

Lines 14-18

After a lengthy discussion in which every part of said contract was fully discussed and understood by all, a motion was made by Fern Wingrove and seconded by Al Hook that same contract be accepted as submitted with the exception of a few minor changes. Motion carried.

RESPONDENT'S EXHIBIT 6-V

EXCERPTS FROM MINUTES OF MEETING
OF BOARD OF DIRECTORS OF CONSOLI-
DATED SEEDSMEN'S UNION

April 1, 1941

Page 1, Lines 12-15

A Motion was made and carried to pay sick benefit to Nida Hansen, Otto Witt and Jim Neal.

In regards to the closed shop, Mr. Voorhees called Mr. Meyberg regarding a meeting suitable to him, Mr. Meyberg.

[Endorsed]: No. 10082. United States Circuit Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. Germain Seed and Plant Company, a corporation, Respondent. Transcript of Record. Upon Petition for Enforcement of an Order of the National Labor Relations Board.

Filed March 10, 1942.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 10082

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

GERMAIN SEED AND PLANT COMPANY,
Respondent.

STATEMENT OF POINTS ON WHICH
PETITIONER INTENDS TO RELY

Comes now the National Labor Relations Board, petitioner in the above proceeding, and, in conformity with the revised rules of this Court heretofore adopted, hereby states the following points as those on which it intends to rely in this proceeding:

1. Upon the undisputed facts, the Act is applicable to respondent and to the employees herein involved:

2. The Board's findings of fact are fully supported by substantial evidence. Upon the facts so found, respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (1) and (2) of the Act.

3. The Board's Order is wholly valid and proper under the Act.

Dated at Washington, D. C. this 6th day of March 1942.

NATIONAL LABOR RELATIONS
BOARD

By ERNEST A. GROSS

Associate General Counsel

[Endorsed]: Filed Mar. 10, 1942. Paul P. O'Brien,
Clerk.